Alumni Association. He belongs to the California Teachers' Association and the California Association of Secondary School Administrators. He is also a member of the National Association of Secondary School Principals and the Centinela Valley Secondary Teachers' Association.

In addition, Mr. Barton is active in other community activities. He is a past president of the Hawthorne Optimist Club. He is a member of the Parent Teacher Association, the YMCA, the Boy Scouts of America, and the Girl Scouts of America.

His hobbies include ham radio operation as well as being a journeyman machinist and journeyman plumber. He is vice president of the Malibu Bowl Land Investment Corp. and a member of the National Association of Watch and Clock Collectors.

Loren C. Barton is an active and dedicated citizen. His contributions to his community and to youth are many. I invite my colleagues to join me in congratulating Loren C. Barton, my friend and a great citizen, for his outstanding service to his fellow man.

WALTER REUTHER

HON. EMILIO Q. DADDARIO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 14, 1970

Mr. DADDARIO. Mr. Speaker, Walter Reuther will be deeply missed by everyone involved in the labor movement. That he was a tough bargainer, a predictable innovator, and a constant guardian of his constituents is unchallenged. But the tragic loss of Walter Reuther will be felt on a much wider scale. He will be missed by all Americans for these were, in a larger sense, his constituents also.

To merely say that he was a progressive is to detract from a man who committed his life to a movement through which the welfare of the worker could be improved and the decency of all men maintained. This required the ability to move beyond special interests; to seek out the best in people and encourage them to act together for higher social purposes.

Walter Reuther understood the needs of the Nation and the unattended peoples because he had lived and worked with them. Forty cents an hour, 13-hour days, and 7-day workweeks were understood by him because he had experienced them.

But the elimination of these oppressive conditions did not blunt his desire to improve the quality of life for the working man. Pension benefits, profit sharing, and a guaranteed income plan were just some of the milestone accomplishments negotiated by Mr. Reuther for the UAW.

And there were others, too. For no direct benefit to his union, he led the way in civil rights, the war against hunger, and efforts to provide adequate health care for the Nation. His service was marked by distinction and dedication to the best interests of the people of this Nation. I extend my deepest sympathy to his family.

SENATE—*Friday, May 15, 1970*

The Senate met at 11:30 o'clock a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal God, who has been the hope and help of many generations, and who in all ages hast given men the power to seek Thee and in seeking Thee to find Thee, grant to us here a vivid sense that Thou art with us. Give us a clearer vision of Thy truth, a greater faith in Thy power, and a more confident assurance of Thy love.

We beseech Thee, O Lord, by Thy grace to mend our broken Nation, and to bring reconciliation of man with man and of government with people.

When the way seems dark, give us grace to walk in the light we have; when much is obscured, make us faithful to the little we can clearly see; when the distant scene is clouded, give us courage to take the next step; when insight falters and faith is weak, help us to repay Thee in love and loyalty, in tenderness and compassion, for our souls' sake and the welfare of the people.

Hear us, O God, in whom we trust now and forever. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. RUSSELL).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 15, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 14685. An act to amend the International Travel Act of 1961, as amended, in order to improve the balance of payments by further promoting travel to the United States, and for other purposes; and

H.R. 17575. An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1971, and for other purposes.

The message also announced that the House had agreed to the following concurrent resolutions, in which it requested the concurrence of the Senate:

H. Con. Res. 520. Concurrent resolution authorizing the printing of an additional 1,000 copies of House Report 91-610, 91st Congress, first session, entitled "Report of Special Study Mission to Southern Africa for the use of the Committee on Foreign Affairs" of the House of Representatives;

H. Con. Res. 537. Concurrent resolution providing for the printing as a House document the tributes of the Members of Congress to the service of Chief Justice Earl Warren;

H. Con. Res. 578. Concurrent resolution authorizing the printing of a "Compilation of Works of Art and Other Objects in the U.S. Capitol," as a House document, and for other purposes;

H. Con. Res. 580. Concurrent resolution authorizing certain printing for the Select Committee on Crime;

H. Con. Res. 584. Concurrent resolution relative to printing as a House document a history of the Committee on Agriculture; and

H. Con. Res. 585. Concurrent resolution authorizing certain printing for the Committee on Veterans' Affairs.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bill and joint resolution, and they were signed by the Acting President pro tempore (Mr. ALLEN):

H.R. 14465. An act to provide for the expansion and improvement of the Nation's airport and airway system, for the imposition of airport and airway user charges, and for other purposes; and

H.J. Res. 1232. Joint resolution making further continuing appropriations for the fiscal year 1970, and for other purposes.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred or ordered to be placed on the calendar, as indicated:

H.R. 14685. An act to amend the International Travel Act of 1961, as amended, in order to improve the balance of payments by further promoting travel to the United States, and for other purposes; ordered to be placed on the calendar; and

H.R. 17575. An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1971, and for other purposes; to the Committee on Appropriations.

HOUSE CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions were severally referred to the Committee on Rules and Administration:

H. Con. Res. 520. Concurrent resolution authorizing the printing of an additional 1,000

copies of House Report 91–610, 91st Congress, first session, entitled "Report of Special Study Mission to Southern Africa for the use of the Committee on Foreign Affairs" of the House of Representatives;

H. Con. Res. 537. Concurrent resolution providing for the printing as a House document the tributes of the Members of Congress to the service of Chief Justice Earl Warren;

H. Con. Res. 578. Concurrent resolution authorizing the printing of a "Compilation of Works of Art and Other Objects in the United States Capitol," as a House document, and for other purposes;

H. Con. Res. 580. Concurrent resolution authorizing certain printing for the Select Committee on Crime;

H. Con. Res. 584. Concurrent resolution relative to printing as a House document a history of the Committee on Agriculture; and

H. Con. Res. 585. Concurrent resolution authorizing certain printing for the Committee on Veterans' Affairs.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, May 14, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, pursuant to the previous order, the Chair recognizes the Senator from Kentucky (Mr. COOK), for not to exceed 30 minutes.

Mr. MANSFIELD. Mr. President, will the Senator yield, without losing his right to the floor or any of his time?

Mr. COOK. I yield.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of certain measures on the calendar, beginning with Calendar No. 895 and concluding with Calendar No. 869.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MERLIN DIVISION, ROGUE RIVER BASIN PROJECT, OREGON

The bill (H.R. 780) to authorize the Secretary of the Interior to construct, operate, and maintain the Merlin division, Rogue River Basin project, Oregon, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–856), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE MEASURE

The purpose of H.R. 780 is to authorize the construction, operation, and maintenance of the Merlin division of the Rogue River Basin reclamation project in Josephine County, Oreg. The Merlin division is a multiple-purpose water resource development for the purposes of serving irrigation water to more than 9,000 acres, for public outdoor recreation, fish and wildlife conservation, area redevelopment, and flood control.

BACKGROUND

The Secretary of the Interior's feasibility report on the Merlin division was transmitted to the Congress on January 2, 1964, and has been printed as House Document 202, 88th Congress. A bill to authorize construction of the project (S. 51, 90th Cong.) passed the Senate on December 8, 1967, but was not acted upon in the House.

The Subcommittee on Water and Power Resources held a hearing on June 30, 1969, on S. 804, a bill introduced by Senator Hatfield, for himself and Senator Packwood, which is similar to H.R. 780. At that time the Department witnesses recommended that further studies of the project plan be carried out to achieve a more economical design and better financial arrangements. Those studies were performed at the committee's request and the results were transmitted to the committee by the Department's letter of April 2, 1970, which is reprinted in this report.

H.R. 780 passed the House of Representatives on April 20, 1970.

PLAN FOR DEVELOPMENT

The plan of development for the Merlin division will provide for optimum utilization of the flows of a major tributary of the Rogue River through construction of Sexton Dam and Reservoir on Jumpoff Joe Creek. The dam, an earthfill structure about 205 feet high, will create a reservoir with a total capacity of 39,000 acre-feet and a surface area of 660 acres. The required right-of-way is primarily undeveloped public lands without scenic or other natural values of important consequence. Minor amounts of privately held lands are likewise undeveloped. Water will be conveyed through a closed-pipe distribution system to the individual delivery points in the service area where it will be available under sufficient pressure for sprinkler irrigation. Sexton Reservoir has a regulatory capability to serve 9,260 acres of designated lands and an added increment of approximately 2,000 acres which have not yet been specifically identified and provided for in the distribution system cost estimates.

The plan of development will also provide recreational facilities for public use for camping, boating, and other water sports activities. Fish and wildlife enhancement in the reservoir will be achieved by the installation of a fish hatchery as a part of the project, to be used for raising of trout for stocking the reservoir. Mitigation of otherwise project-caused fishery damages will be accomplished by providing a minimum release to the stream from the reservoir.

FINANCIAL AND ECONOMIC ANALYSIS

The estimated construction cost of the Merlin Division is $28,470,000. This cost reflects recent design changes in the distribution system and updating of estimates to July, 1969 price levels. The investment cost, which also includes $282,000 of assigned costs of the Federal Columbia River power system, totals $28,752,000 and is allocated among the project purposes as follows:

Irrigation	$21,958,000
Flood control	1,390,000
Recreation	2,550,000
Fish and wildlife conservation	785,000
Unassigned reservoir storage	2,069,000
Total	28,752,000

Annual operating costs are estimated to be $135,500.

Annual project benefits are evaluated at $2,151,700. The project has a ratio of annual benefits to annual cost of 1.87 to 1.00 over a 100-year period of analysis.

The irrigation water users will repay all operating costs and in addition $5,785,000 of the investment costs allocated to irrigation. Financial assistance of $15,891,000 will b provided from Federal Columbia River power system revenues. Recreation and fish and wildlife conservation costs will be shared by non-Federal entities in accordance with the provisions of the Federal Water Projects Recreation Act (79 Stat. 213).

The project repayment analysis utilizes a formula for determining an irrigation pumping power rate which assures repayment without interest of an equitable portion of the overall power investment of the Federal Columbia River power system and associated operating costs. This is compatible with the traditional reclamation policy that irrigation investment be returned without interest. It will not adversely affect the rates or the repayment schedule for the commercial power investment of the system.

NEED FOR THE PROJECT

The Merlin division area and its surrounding environs in Josephine and Jackson Counties, Oreg., are substantially dependent on the timber industry as a source of economic activity. This industry has, in recent years, been chronically depressed and underutilized. At the present time, it is undergoing an acute depression, with the insured unemployment rate in Josephine County approaching 18 percent of the labor force. The paramount need of the community is an alternate source of employment and economic activity for its underutilized land, water, and labor resources. This can be afforded in large measure through the development of water resource projects providing for irrigation of the arable lands in the valley of the Rogue River and its tributaries. Assured water supplies will also enable greater land utilization based on residential development by in-migrants attracted by the scenic, climatic, and recreational amenities of southern Oregon.

Specifically, the development of the project will result in an assured water supply for more than 9,000 acres of land susceptible to the production of fruit and berries, including the well-known Medford pears, and the forage and pasture base for a greatly expanded livestock and dairy industry. Tourism and recreation will be benefited by the opportunities for enjoyment of the reservoir fishery and water sports potential of Merlin Reservoir conjunctively with the existing resources of the area.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends that H.R. 780 be enacted.

YAKIMA TRIBES

The Senate proceeded to consider the bill (S. 3337) to provide for the disposition of funds appropriated to pay judgments in favor of the Yakima Tribes in Indian Claims Commission dockets numbered 47–A, 162, and consolidated 47 and 164, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with an amendment on page 2, after line 3, strike out:

SEC. 2. Any part of such funds that may be distributed per capita under the provi-

sions of this Act shall not be subject to Federal or State income tax. No portion of any of the funds distributed in accordance with the provisions of this Act shall be subject to any lien, debt, or attorney fees except delinquent debts owed by the tribe to the United States or owed by individual Indians to the tribe or the United States.

And, in lieu thereof, insert:

SEC. 2. Any part of such funds that may be distributed per capita under the provisions of this Act shall not be subject to Federal or State income tax; and any per capita share payable to a person under twenty-one years of age or to a person under legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines will adequately protect the best interest of such persons.

So as to make the bill read:

S. 3337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the funds appropriated by the Act of October 31, 1965 (79 Stat. 1133, 1152), to pay judgments to the Yakima Tribes of the Yakima Reserveation in Indian Claims Commission dockets numbered 47–A and 162, and by the Act of July 22, 1969 (83 Stat. 49), is consolidated dockets 47 and 164, together with interests thereon, after payment of attorney fees and litigation expenses, may be advanced, expended, invested, or reinvested for any purpose that is authorized by the tribal governing body and approved by the Secretary of the Interior.

SEC. 2. Any part of such funds that may be distributed per capita under the provisions of this Act shall not be subject to Federal or State income tax; and any per capita share payable to a person under twenty-one years of age or to a person under legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines will adequately protect the best interest of such persons.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–859), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 3337, introduced by Senators Jackson and Magnuson at the request of the Yakima Tribes, is to provide for the disposition of three awards totaling $2,210,-991.40 awarded to the Yakimas by the Indian Claims Commission. The awards represent, for the most part, compensation for the value of reservation lands omitted through erroneous surveys of the boundaries of the Yakima Indian Reservation established by the treaty of June 9, 1855.

NEED

Funds to satisfy the awards in dockets 47–A and 162, in the total amount of $110,-991.40, were appropriated by the act of October 31, 1965 (79 Stat. 1133, 1152), and the funds to cover the award in consolidated dockets 47 and 164, in the amount of $2,-100,000 were appropriated by the act of July 22, 1969 (83 Stat. 49, 62). Attorney fees have been allowed in the total amount of $221,-099.14, or 10 percent of each award. A total of $1,999,013.44 has been invested in U.S. Treasury bills.

Under a provision carried in each annual appropriations act for the Department of the Interior, however, the money cannot be used until specifically authorized by the Congress. S. 3337 would give such authorization. On December 1, 1969, the tribes adopted a two-part plan for the use of the $2,100,000 award in consolidated dockets 47 and 164. They favor reserving $250,000 for a scholarship trust fund, with the interest to be used for tribal scholarships, and the remainder distributed per capita, which will amount to about $300 a share. Tribal membership on September 16, 1969, totaled 5,748 persons. The tribes' position is that a substantial portion of their annual income, nearly $3,500,000 already goes toward ongoing social and economic development plans and projects, and they request that Congress authorize a per capita distribution of these judgment funds.

S. 3337 also covers the awards in dockets 47–A and 162, in the total amount of $110,-991.40. These funds will be available for tribal purposes.

AMENDMENT

The committee has adopted a substitute for section 2 of the bill as introduced. The new section would provide that any per capita distribution that may be made shall be nontaxable and, further, that shares payable to minors or those under legal disability shall be protected under procedures adopted by the Secretary of the Interior. Language stating that "No portion of any of the funds distributed in accordance with the provisions of this act shall be subject to any lien, debt, or attorney fees except delinquent debts owed by the tribe to the United States or owed by individual Indians to the tribe or the United States" has been stricken. Provisions of this kind have been removed by Congress from all distribution bills enacted in recent years. Indians ought not to be encouraged to escape payment of just debts. Such immunity may also severely limit the availability of credit to Indians. The justification of the Department of the Interior for retaining this provision has not been supported by facts. The committee knows of no reason for treating Indians in a different fashion than non-Indians.

COSTS

No increase in Federal expenditures will result from the enactment of S. 3337.

HYDROELECTRIC PROJECTS ON MIDDLE SNAKE RIVER

The Senate proceeded to consider the bill (S. 940) to prohibit the licensing of hydroelectric projects on the Middle Snake River below Hells Canyon Dam for a period of 10 years, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 1, line 3, after the word "unless", strike out "otherwise hereafter"; on page 2, line 2, after the word "the", strike out "ten-year" and insert "eight-year"; and in line 6, after the word "such", strike out "ten-year" and insert "eight-year"; so as to make the bill read:

S. 940

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, unless authorized by Congress, no license or permit shall be issued nor shall any application for a license or permit be accepted for filing under the Federal Power Act (41 Stat. 1063; 16 U.S.C. 791–823), as amended, with respect to that reach of the Middle Snake River running between Idaho and Oregon and Idaho and Washington extending from Hells Canyon Dam to a point at river mile 146.5 above the mouth of the Snake River where the Asotin Dam project was authorized by the Flood Contral Act of 1962, during the eight-year period immediately following the date of the enactment of this Act: *Provided,* That nothing herein shall change or affect, for the purposes of any action which may be taken subsequent to such eight-year period, the present status, equities, positions, rights, or priorities of any party or parties to an application for license or permit pending before the Federal Power Commission on the date of enactment of this Act: *And provided further,* That nothing herein shall preclude the completion of any hearing or the completion of the record of any proceedings pending before the Federal Power Commission on the date of enactment of this Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–858), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE MEASURE

The purpose of this legislation is to suspend the authority of the Federal Power Commission to accept applications or grant licenses or permits under the Federal Power Act (41 Stat. 1063 as amended) for the construction of hydroelectric power projects on the reach of the Middle Snake River extending along the Idaho—Oregon and Idaho—Washington borders for 100 miles between the existing Hells Canyon Dam and the authorized Asotin Dam.

BACKGROUND

Between the existing Hells Canyon dam of the Idaho Power Co. and the site of the Asotin dam which is authorized for construction by the Corps of Engineers, the Snake River runs through the deepest gorge on this continent. Three major tributaries enter the Snake within this 100-mile reach, the Imnaha, Salmon, and Grande Ronde Rivers. Topographic relief in the area varies from peaks above 9,000 feet above sea level to less than 800 feet along the Snake River at Asotin. The canyon is more than a mile deep at some locations.

The narrow rocky gorge and rapid fall of the stream which contribute to the scenic value of the area also provide a number of excellent sites for hydroelectric dams. A number of dams and combinations of dams have been studied and proposed by Federal and non-Federal entities over the years. From Hells Canyon dam downstream, the more significant dams which have been discussed are:

Dam:	*River mile (from Columbia River)*
Hells Canyon	247
Pleasant Valley	213
Appaloosa	198
Low Mountain Sheep	192
High Mountain Sheep	189
Nez Perce	186
China Gardens	172

HISTORY OF DEVELOPMENT

Studies of this reach of the Snake River have been undertaken intermittently since the early 1900's for recreational, navigation, and multiple-purpose development. A comprehensive plan encompassing studies by both the Department of the Interior and the Corps of Engineers was completed in 1948. The report identified the Mountain Sheep site just above the mouth of the Salmon River as an alternative to the Nez Perce site below the Salmon which had been studied by the Corps of Engineers but which would seriously affect the anadromous fish run in the Salmon River.

Another joint report was prepared in 1954 which proposed construction of the Mountain

Sheep and Pleasant Valley Dams by the Bureau of Reclamation.

The Federal Power Commission granted a license in 1955 to the Idaho Power Co. to construct a low Hells Canyon Dam as well as the Brownlee and Oxbow Dams upstream on the Snake River.

The Corps of Engineers was authorized to construct the Asotin Dam by the Flood Control Act of 1962. Construction funds have not yet been appropriated. The feasibility of including a navigation lock in the initial construction of the Asotin Dam is presently being studied.

PENDING FPC ACTION

In 1954, the Pacific Northwest Power Co. (PNP); a subsidiary of Pacific Power and Light, Portland General Electric, Montana Power, and Washington Water Power; filed for a preliminary permit to develop a combination of low Mountain Sheep and Pleasant Valley dams. The FPC granted the permit (Project 2173) in 1955.

Later in 1955, the company filed a license application. Hearings were held in 1956, the Examiner recommended licensing in 1957, but the Commission denied the license in 1958 (19 FPC 126). The Commission's denial was based upon a determination that the Nez Perce project would be better adapted to a comprehensive regional development plan and would have more flood control and power benefits. The Commission was then of the view that the fish passage problem presented by the Nez Perce high dam below the Salmon River could be solved.

Later in 1958, the company filed application for license to construct a High Mountain Sheep Dam (Project 2243). Also in 1958, the Corps of Engineers completed a report on the Columbia River and tributaries which recommended a number of alternatives for development of the Middle Snake River including High Mountain Sheep and Nez Perce Dams.

In 1960, the Washington Public Power Supply System (WPPS), a joint operating agency composed of 16 public utility districts in the State of Washington, filed application for the Nez Perce project (Project 2273). The FPC consolidated the two applications for hearings which opened in November 1960 and closed in September 1961.

The Secretary of the Interior commented to the Commission that because of the fishery problems and because of the power which would become available from the Columbia River Treaty with Canada, "we believe that it is unnecessary at this time, and for some years to come to undertake any project in this area."

In April of 1962, a Corps of Engineers report was transmitted to the Congress on "Water Resources Development of the Columbia River". It reflected negotiations among the Federal agencies and concluded that High Mountain Sheep dam or an alternative should be authorized for construction by the Bureau of Reclamation. The Secretary of Army similarly recommended to the FPC that, because of Federal interests in the area, the Commission should recommend Federal construction of the High Mountain Sheep dam.

The opinion of the Presiding Examiner issued in 1962, and the Commission's decision of February, 1964, (31 FPC 247) nevertheless granted PNP a license to build High Mountain Sheep and denied a license to WPPS for either site. Following a re-hearing on intervention by the Secretary of the Interior, the Commission on April 30, 1964, affirmed granting of the license. The High Mountain Sheep dam was considered by the Commission to be the best comprehensive development which would avoid fish passage problems to the Salmon River.

The license was appealed to the U.S. Court of Appeals for the District of Columbia by the Secretary and WPPS. The Court affirmed the FPC decision on March 24, 1966. A petition for writ of certiorari was granted and the Supreme Court announced its decision on June 5, 1967. (387 U.S. 428). In a divided decision the Court remanded the project to FPC.

The Court's decision was based upon the following general points:

Refusal of the Commission to take testimony of the Secretary of Interior regarding Federal development.

Lack of adequate consideration of fisheries and recreation aspects by the Commission.

Interior's recommendation of deferral for fishery studies.

Lack of determination by FPC of the public interest as opposed to benefit to the licensee, and lack of consideration of all aspects of public concern rather than only the regional ability to use the power.

In July of 1967 the FPC ordered further hearings which were convened in Lewiston, Idaho, and in Portland, Oreg., in September 1968, and in Washington, D.C. beginning in January of 1970.

In 1967, PNP and WPPS entered into an agreement to undertake joint development of the High Mountain Sheep project and amended their applications to be treated as single joint application.

In May 1968, Secretary of the Interior Udall presented the Department's position to the FPC. He opposed the licensing of High Mountain Sheep Dam and proposed instead Federal construction of a combination of a Dam at the Appaloosa site and a Low Mountain Sheep Dam—both above the confluence of the Snake and Imnaha Rivers. The Secretary's position was based upon the impact on fisheries, the need for power, and the Federal interest in operation of the Columbia River system.

In February 1969, the Secretary and the applicants filed a joint motion for continuance of FPC proceeding to permit time for the Secretary to seek congressional authorization of Federal construction of a multiple purpose development including a plan for financial participation by the Pacific Northwest utilities interested in power development. Successive motions led to a continuance until August of 1969 to permit the present administration to review the proposal.

On August 12, 1969, Secretary Hickel notified the FPC that he concluded that it is in the public interest to oppose construction of any project at this time. He called for a moratorium of 3 to 5 years for studies of the highest and best future development of the Middle Snake.

PRESENT LEGISLATION

S. 940, introduced by the Senators from Idaho, would prohibit the Federal Power Commission from issuing any license or permit or from accepting any application for a license or permit concerning the reach of the Snake River from Hells Canyon Dam (river mile 247) to river mile 146.5 (approximately the Asotin Dam site). As amended by the committee, the measure would impose the prohibition for a period of 8 years immediately following the date of enactment.

The bill further provides that the present status and rights of applicants would remain unaffected after the moratorium and that the FPC may complete its pending hearings.

The reach of the Snake River which is included within the prohibition extends downstream to approximately the location of the proposed Asotin Dam site. The provisions of the measure would have no effect, however, upon the status of the Federal Asotin Dam which was authorized by the Flood Control Act of 1962 (76 Stat. 1193).

The Subcommittee on Water and Power held a hearing on S. 940 on February 16, 1970.

COMMITTEE AMENDMENTS

The committee amended the bill and the title to reduce the term of the prohibition on licensing from 10 years to 8. The moratorium was initially introduced as S. 4025, 90th Congress in September of 1968. At that time, the 10-year moratorium would have generally coincided with the moratorium on studies of transbasin water diversions established under the provisions of the Colorado River Basin Project Act (82 Stat. 885).

The committee's amendment would have the effect of restoring the term of the prohibition as originally intended.

The committee also made a clarifying amendment to line 3 of page 1.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends that S. 940, as amended, be enacted.

Mr. JORDAN of Idaho. Mr. President, this bill, S. 940, sponsored by me and my distinguished colleague (Mr. CHURCH), would prohibit FCC licensing of hydroelectric projects on the Middle Snake River below Hells Canyon Dam for a period of 8 years.

This is not merely restrictive legislation to impede development; rather it is designed to accomplish a brief breathing spell in development of a working river that courses through Idaho's heartland, providing lifegiving water, irrigated green space, public recreation, and clean hydroelectric energy from border to border of the Gem State. If the legislation is enacted, the river remains unimpaired as a rich natural resource, but needed time will be provided to complete ecological and engineering studies that will help insure a sound decision on the future utilization of this reach of the Snake River.

In recent decades, six major hydroelectric developments have been proposed for this 100-mile stretch of the river, and FCC hearings are nearing completion on one proposal to build a dam at the High Mountain Sheep site. A proviso of the bill protects the status and rights of the applicants involved in this FCC licensing application and permits completion of the pending hearings.

My interest in this legislation was generated primarily by the recognition that the Snake River and its tributaries represent the major surface water resources remaining to meet future water requirements in a tremendous arid and semiarid area in Idaho and eastern Oregon. To maintain the existing, albeit pitifully small acreage of irrigated green space in this area, and to provide water for new homes, farms, industry, gardens, lawns, and shade trees, and to serve parks and outdoor recreation playgrounds and to meet other requirements, more water will be needed in future years. Of this there is no doubt; planning studies now going forward in State and Federal agencies will only confirm the size of this need.

This legislation keeps open the options for an adequate future water supply and for a properly managed river resource. These environmental decisions must be made from the best information available and without unnecessary haste. To this end, I recommend affirmative action on this moratorium legislation.

Mr. CHURCH. Mr. President, I believe that S. 940, the bill to prohibit for 8 years the licensing by the Federal Power Commission of hydroelectric projects on the

Middle Snake River in Idaho, is one which is urgent in nature.

I have cosponsored this measure with my colleague from Idaho, Senator JORDAN, because we believe that the time should be provided for further appraisal of the Middle Snake in the context of the changing need.

In my view, the necessity for this moratorium is pressing because of the application for construction of a hydroelectric project on the Middle Snake which is pending before the Federal Power Commission.

I am presently persuaded that the construction of a hydroelectric dam on the Middle Snake would not contribute greatly to the development of Idaho. The power would be sold almost entirely outside the State to large urban centers. An alleged benefit to the fishery has yet to be proved or even accepted by the best informed sportsmen groups.

If the dam were to involve a Federal contribution, congressional appropriations for water development projects are limited and it is very important to arrange our priorities in such a way that multipurpose projects, which include irrigations, navigation, and flood control benefits as well as electric power and which contribute most to the general growth of our economy, are built ahead of those projects which contribute the least.

The Middle Snake has a long history of conflict in the private versus public power field. I will not go into a detailed chronology. The record, however, is replete with divided and opposing appraisals. Even now there are questions as to the location of the damsite. Meanwhile, there has been a growing movement against any dams in the canyon and for establishment of this section of the Snake as a recreational river preserved in its natural state.

A bill for this latter purpose has been introduced and is pending before the Senate Parks and Recreation Subcommittee.

Mr. President, this is a magnificent stretch of the river in a canyon deeper than the Grand Canyon of the Colorado. The Seven Devils Peaks rise 8,000 feet above waters that often churn white between sheer walls of rock. This is a wild and remote area where thousands of deer and elk graze in the wintertime and which is the natural habitat for cougar, bear, coyote, and other wildlife. Salmon, steelhead, bass, and the mighty sturgeon abound in the river. Migratory waterfowl, wild turkeys, golden eagles, partridge, grouse, and many other birds flock here. Domestic livestock also graze in the area.

Hells Canyon is internationally known to white water boatmen. Many visitors reach the canyon by jet boats from Lewiston, Idaho, or down steep trails from the Idaho or Oregon sides.

Along the river are many fine campsites some of them ancient Indian stopping places with archeological and anthropological importance.

There are other sound reasons for advocating a moratorium. We need more time to assess the possibility of preserving the start of the salmon and steelhead runs. These contribute not only to the burgeoning recreation industry for transient sportsmen but also to the pleasure of life in our State for many thousands of our citizens.

Another few years should bring us vital answers that we can only guess at now.

Finally, there is the consideration which must be given to the likelihood that nuclear technology will continue to advance. Its pace in recent years has been such that a hydroelectric dam without the enhancement of other public benefits might well be rendered obsolete before it is even completed. There are other alternative sources for power under examination.

When there are so many multipurpose projects that could be completed in the interim, it seems hardly sensible to rush to judgment on building a single-purpose or, at most, a dual-purpose dam in this critical stretch of the river.

Mr. President, we are not prejudicing the issue in seeking this moratorium. We ask only for sufficient time to make sure that this great resource is finally dedicated to its highest and best public use.

That is the purpose of the bill, and I hope the Senate will approve it today.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended, so as to read: "A bill to prohibit the licensing of hydroelectric projects on the Middle Snake River below Hells Canyon Dam for a period of 8 years."

INTER-TRIBAL COUNCIL, INC., MIAMI, OKLA.

The Senate proceeded to consider the bill (S. 886) to convey certain land of the United States to the Inter-Tribal Council, Inc., Miami, Okla., which had been reported from the Committee on Interior and Insular Affairs with amendments on page 1, line 6, after the word "States,", insert "except oil, gas, and other minerals therein,"; and on page 2, at the beginning of line 2, insert "township 27 north, range 24 east, lying north"; so as to make the bill read:

S. 886

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior shall convey, without monetary consideration, to the Inter-Tribal Council, Incorporated, Miami, Oklahoma, all right, title, and interest of the United States, except oil, gas, and other minerals therein, in and to the land more particularly described in subsection (b) of this section consisting of 114 acres more or less.

(b) The land referred to in subsection (a) is more particularly described as follows:

South half of the northwest quarter and that part of the north half of the southwest quarter of section 21, township 27 north, range 24 east, lying north of the centerline of highway numbered 60, Indian base and meridian, containing 114 acres, more or less, in Ottawa County, Oklahoma.

SEC. 2. Upon conveyance to the Inter-Tribal Council, Incorporated, Miami, Oklahoma, of the land referred to in the first section of this Act such land shall be subject to taxation to the same extent as any real property in private ownership in Ottawa County, Oklahoma, and notwithstanding any other provision of law shall be freed of all restrictions which might otherwise attach to such real property by reason of Indian ownership, including but not limited to restrictions on use, management, and disposition.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–859), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXPLANATION

The purpose of S. 886 is to authorize and direct the Secretary of the Interior to convey 114 acres of surplus Federal land in Oklahoma to an organization known as the Inter-Tribal Council Inc. This is a nonprofit organization incorporated under the laws of the State of Oklahoma in 1968 by the leaders of the Seneca, Quapaw, Peoria, Modoc, Ottawa, Shawnee, Miami, and Wyandotte tribes to promote the general health and welfare of the tribal members. The Articles of Incorporation show that the 24 directors consists of three members each from the eight Indian tribes. The corporation will encourage labor-oriented industries to locate on this acreage, thus raising the socioeconomic level of the tribal members residing in the area through the creation of jobs and better housing.

This land was purchased in the 1930s and 40's by the Federal Government for $6,587 and used for farming and dairying operations at the Seneca Indian school until these operations were discontinued 8 years ago. The entire acreage is presently excess to the needs of the Bureau of Indian Affairs. The site appears to be favorably located for industrial purposes. The council does not own other land.

This bill will transfer Government-owned lands presently valued at $25,500 to a nonprofit State corporation without payment of consideration. This organization has no money to pay for this land.

AMENDMENTS

The committee has adopted two amendments. The first would except from the conveyance and retain in the United States all minerals, including oil and gas, within the 114-acre parcel. The second amendment, recommended by the Department of the Interior, is merely a technical one to correctly identify the land in question.

COST

As explained previously, the present value of this Government-owned land is $25,500. Although it is customary to including language in bills of this nature directing the Indian Claims Commission to determine the extent to which the value of the land should or should not be set off against any pending claim, it has not been done in this bill due to the virtual impossibility of making an equitable determination where eight tribes are involved.

FORT BELKNAP INDIAN RESERVATION, MONT.

The Senate proceeded to consider the bill (S. 786) to grant all minerals, including coal, oil, and gas, on certain lands on the Fort Belknap Indian Reservation, Mont., to certain Indians, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with an amendment on page 1, after line 2, strike out: "That the portion of section 6 pertaining to

minerals of the Act of March 3, 1921 (41 Stat. 1355), is hereby amended to read as follows:

"SEC. 6. Any and all minerals, including oil and gas,"; and, in lieu thereof, insert: "That the last numbered paragraph of section 6 of the Act of March 3, 1921 (41 Stat. 1355, 1358–1359), is hereby amended to read as follows:

"Any and all minerals including oil and gas and lands chiefly valuable for the development of water power";

So as to make the bill read:

S. 786

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last numbered paragraph of section 6 of the Act of March 3, 1921 (41 Stat. 1355, 1358–1359), is hereby amended to read as follows:

"Any and all minerals, including oil and gas and lands chiefly valuable for the development of water power, on any of the lands to be allotted hereunder are reserved in perpetuity for the benefit of the members of the tribe in common and may, with the consent of the Tribal Community Council, be leased for mining purposes in accordance with the provisions of the Act of May 11, 1938 (52 Stat. 347; 25 U.S.C. 396 a–f), under such rules, regulations, and conditions as the Secretary of the Interior may prescribe: *Provided,* That leases or mining permits may be entered into pursuant to section 6 of the Act of March 3, 1921 (41 Stat. 1355), with the consent of the tribal council and under such rules, regulations, and conditions as the Secretary of the Interior may prescribe, but no lease shall be made for a longer period than ten years and as long thereafter as minerals are produced in paying quantities: *Provided, however,* That until the same shall be leased, any Indian being the head of a family and having rights on such reservation may take coal from any of the tribal lands for his own domestic use."

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–860), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the bill is to amend the act of March 3, 1921, which provided for allotment of lands on the Fort Belknap Reservation, to provide for the reservation of all minerals for the benefit of tribal members in common.

NEED

The 1921 act reserved to the Gros Ventre and Assiniboine Tribes for a period of 50 years all minerals, including oil and gas, on lands allotted pursuant to the act, but reserved to the Congress the right to extend the period within which such reserved tribal rights would otherwise expire. It also provided for 10-year leases with right of renewal for a like period. It further provided for setting aside for tribal use those lands chiefly valuable for the development of water power. At the expiration of 50 years from the date of approval of the act, unless otherwise ordered by the Congress, the minerals will become the property of the individual allottee or his heirs. S. 786 reserves the minerals in perpetuity for the benefit of the tribe.

The 1921 act provided that no mining lease could be made for a period longer than 10 years, but a right of renewal for an additional period of 10 years could be granted to a lessee upon such terms and conditions as the Secretary of the Interior might prescribe. That lease term is much less attractive to lessees than the one provided for in the 1938 Indian Mineral Leasing Act which specifies a term not to exceed 10 years and so long thereafter as minerals are produced in paying quantities.

There has been no appreciable benefit from the mineral reservation to the Indians of Fort Belknap since the 1921 act because of lack of interest in the area. The full potential for mineral production on the reservation is not known. However, the committee believes the tribes should be accorded the opportunity to fully develop their mineral resources. The tribes have requested enactment of this legislation which will permit exploration, development, and extraction of minerals to the benefit of the tribe as a whole.

AMENDMENT

The committee adopted a technical amendment recommended by the Department of the Interior in the attached report.

COST

No additional expenditure of Federal funds will result from the enactment of S. 786.

WASHOE TRIBE

The Senate proceeded to consider the bill (S. 759) to declare that the United States holds in trust for the Washoe Tribe of Indians certain lands in Alpine County, Calif., which had been reported from the Committee on Interior and Insular Affairs with amendments, on page 1, after line 7, strike out:

Township 12 north, range 19 east, Mount Diablo meridian, California, section 36, lots 5, 6, that portion of lot 7 lying in the northwest quarter southwest quarter, and lot 9 containing 101.23 acres, more or less.

And, in lieu thereof, insert:

Township 11 north, range 20 east, Mount Diablo meridian, California, section 20, south east quarter southeast quarter and section 29, northeast quarter northeast quarter, containing 80 acres, more or less."

On page 2, after line 4, insert a new section, as follows:

SEC. 2. The Indian Claims Commission is directed to determine, in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of the title conveyed by this Act should or should not be set off against any claim against the United States determined by the Commission.

So as to make the bill read:

S. 759

Be it enacted by the Senate and House of Representatives of the United States to America in Congress assembled, That all of the right, title, and interest of the United States in the following described public domain land located in Alpine County, California, are hereby declared to be held by the United States in trust for the Washoe Tribe of Nevada and California:

Township 11 north, range 20 east, Mount Diablo meridian, California, section 20, southeast quarter southeast quarter and section 29, northeast quarter northeeast quarter, containing 80 acres, more or less.

SEC. 2. The Indian Claims Commission is directed to determine, in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of the title conveyed by this Act should or should not be set off against any claim against the United States determined by the Commission.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–861), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 759, introduced by Senator Bible, would be to grant to the Washoe Tribe of Indians of Nevada and California a trust title to 101.23 acres of vacant public domain in Alpine County, Calif., to provide a new reservation land base for approximately 250 Washoe Indians who reside in the Woodfords community in Alpine County, and enable them to participate in a mutual-help housing program. As amended, the bill would set aside 80 acres of public domain in Alpine County, Calif., to carry out a program to assist certain Washoe Indians.

NEED

The members of the Woodfords community are descendants of Washoe Indians who have resided in this area for generations. Twenty-one of their ancestors received public domain allotments many years ago. As a result of sales and the issuance of patents in fee all except five of these allotments have gone out of Indian ownership and these five are badly fractionated by heirship. Many of the families are occupying portions of the remaining allotments as squatters.

These Indians live in deplorable conditions although considerable attention has been called to their plight in recent years. Not only is housing inadequate, but the domestic water source is contaminated and inconvenient, and there is a lack of waste disposal facilities. Water is presently obtained from unprotected sources, either a stream or a poorly developed spring. None of the structures used for housing have inside plumbing. All of the housing is overcrowded and of very inferior quality. Concerted efforts have been made by the Indians and local officials without success to include these Indians in program to improve their living conditions.

The use of the heirship land as a base for a housing program has been considered. However, the heirs are reluctant to donate their land for this purpose. The location of these allotments is such that they would not be suitable for a housing program even though the present owners agreed that they be so used.

Without a land base it has been impossible for the Indians to develop community programs through which they can improve their situation. Since they and their ancestors have lived in Alpine County for generations, they are understandably opposed to locating elsewhere.

The Washoe Indian Tribe consists of members residing in four Indian communities: Carson Colony, Dresslerville Colony, the Washoe Ranches in Nevada, and the Woodfords community in California. Each of the communities in Nevada has a land base, tribal land held by the United States in trust for the use and benefit of the tribe. The tribe has established a housing authority and this same authority could and would function in California for the benefit of the Woodfords community if it obtains a land base. The fact that the land on which the housing project would be located is held in trust by the United States will be the final factor enabling the tribal housing authority to qualify the project for assistance from the Department of Housing and Urban Development.

The tribal council has requested the enactment of the legislation for the benefit of

their members in Alpine County so that members may avail themselves of this mutual-help housing program. The State of California by Senate Joint Resolution 16 has memorialized the President and the Congress to enact such legislation. Because of the extreme concern for the welfare of the Woodfords people and the obvious need for relief, the committee recommends enactment of this legislation.

AMENDMENTS

The committee has adopted two amendments. The first one strikes the land description and inserts a new land description in accordance with the Department of the Interior's recommendation. The second amendment adds a new section 2, suggested by the Bureau of the Budget, which directs the Indian Claims Commission to determine the extent to which the value of the title conveyed should or should not be set off against any claim before the Commission.

COST

The Department of the Interior was unable to furnish the committee an appraisal with respect to the value of the 80-acre tract. Nor did they have a site or development plan prepared.

COLLEGE HOUSING DEBT SERVICE GRANTS

The joint resolution (S.J. Res. 196) increasing the authorization for college housing debt service grants for fiscal year 1971 was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 401(f)(2) of the Housing Act of 1950 is amended by striking out "$4,200,000" and inserting in lieu thereof "$6,800,000".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–863), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

The joint resolution would provide for an additional $2,600,000 authorization for college housing interest subsidy grants. This legislation is necessary to provide the authority needed to meet the budget requests for fiscal year 1961, now pending before the Congress. The Appropriations Committees of both Houses of Congress are working on the budget request for fiscal year 1971 and need the additional authorization if the full budget request for college housing is to be approved.

The interest subsidy proposed for fiscal year 1971 would be adequate to finance a $300 million college housing construction program—the same level we have had for the past several years.

In the Housing and Urban Development Act of 1969, because of rising construction and interest costs, the Congress approved an additional $4.2 million of authorization for a cumulative total through fiscal year 1971 of $24.2 million.

Interest costs, however, have continued to rise and it is currently estimated that the program levels authorized by Congress for 1970 will require a supplemental contract authorization. In order to carry out the congressional intent and to maintain the program at the $300 million level, the additional $2.6 million is necessary.

The following table shows the use of the interest subsidy for the past few years:

Contract authority in appropriation acts:	
Fiscal year 1969, enacted	$5,500,000
Fiscal year 1970, enacted	6,500,000
Fiscal year 1970, proposed supplemental	5,500,000
Fiscal year 1971, budget estimate	9,300,000
Total requirements through fiscal year 1971	$26,800,000
Contract authority included in sec. 401 of Housing Act of 1950, as amended	24,200,000
Additional authority required	2,600,000

Together with the $4,200,000 provided in the Housing and Urban Development Act of 1969, the additional amount to become available on July 1, 1970, would be $6,800,000.

FISHERIES LOANS

The bill (S. 3102) to amend section 4 of the Fish and Wildlife Act of 1956, as amended, to extend the term during which the Secretary of the Interior can make fisheries loans under the act was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(c) of the Fish and Wildlife Act of 1956 (70 Stat. 1121), as amended (16 U.S.C. 742c(c)), is further amended by changing the date "June 30, 1970" to "June 30, 1980" where it appears three times.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–862), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE LEGISLATION

The bill, introduced at the request of the Department of the Interior pursuant to Executive Communication of September 26, 1969, would accomplish this purpose by extending the life of the fisheries loan fund an additional 10 years, from June 30, 1970, until June 30, 1980.

BACKGROUND AND NEED FOR THE LEGISLATION

The original authority for the fisheries loan fund was contained in the Fish and Wildlife Act of 1956. It was provided to assist in maintaining and upgrading the U.S. fishing fleet due to the fact that other sources of long-term financing for fishing vessels were not available.

By February 28, 1970, a total of 1,091 loans for nearly $28 million had been approved. Estimated annual losses from bad debts have been held to less than 1 percent of the average annual outstanding balance of loans.

The need for this loan program is even more critical at the present time than in 1956 when the act was first passed. High interest rates and general loan difficulty, coupled with the uncertainties of fishing, would place the fishing vessel operator in a nearby hopeless position without this assistance. The current demand for such fisheries loans is unprecedented requiring the Department of the Interior's Bureau of Commercial Fisheries to establish in October 1961 a limit of $40,000 per transaction.

Under the present act the authority to make loans expires on June 30, 1970. All money then in the fund and all collected thereafter will be paid into the general fund of the Treasury. However, this bill would avoid covering such funds into the Treasury as miscellaneous receipts by permitting the continuation of the loan fund through extension of its present authority and life for an additional 10 years until June 30, 1980.

The fisheries loan fund has made it possible for over 1,000 vessels to be constructed, purchased, upgraded, or kept in the fishery. Interest collections have been sufficient to pay the program costs and losses, so the only expense to the taxpayer has been the interest on funds appropriated many years ago.

CONCLUSION

In view of the small cost and the tremendous benefits of this program, your committee recommends the enactment of this bill.

COST

The extension of the loan program proposed by this legislation involves no additional authorization to appropriate Federal funds, which was set at $20 million in 1958 to provide initial capital. Therefore, there should be no additional cost.

SENATE JOINT RESOLUTION PASSED OVER

Senate Joint Resolution 173, a joint resolution authorizing a grant to defray a portion of the cost of expanding the United Nations Headquarters in the United States was announced as next in order.

Mr. MANSFIELD. Over, Mr. President.

The ACTING PRESIDENT pro tempore. The joint resolution will be passed over.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, the next bill, Calendar No. 868, is the bill now pending, H.R. 15628, to amend the Foreign Military Sales Act. The only bill left on the calendar to be called at this time is Calendar No. 869.

FEDERAL YOUTH CORRECTIONS ACT

The bill (S. 3564) to amend the Federal Youth Corrections Act (18 U.S.C. 5005 et seq.) to permit examiners to conduct interviews with youth offenders was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5014 of title 18, United States Code, is amended by inserting ", or an examiner designated by the Division," after the words "of the Division".

SEC. 2. Section 5020 of title 18, United States Code, is amended by deleting the words "or a member thereof" and inserting in lieu thereof ", a member thereof, or an examiner designated by the Division".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–866), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the bill is to amend the Federal Youth Corrections Act (18 U.S.C. 5005 et seq.) to permit examiners to conduct interviews with youth offenders.

STATEMENT

The bill was introduced on the recommendation of the Department of Justice.

In its message to the Congress recommending the legislation, the Department of Justice said:

The Youth Corrections Act provides for a Youth Correction Division within the Board of Parole. That Division, composed of members of the Board of Parole as designated by the Attorney General, makes recommendations concerning the treatment and correction policies for committed youth offenders, orders the release of offenders on parole, the return to custody for further treatment of those who do not succeed when conditionally released, and the unconditional release of those who are successful for at least 1 year on parole.

Another function of the Division is to interview youth offenders after initial commitment and upon return to custody. Sections 5014 and 5020 of title 18, United States Code, provide for members of the Division to conduct these interviews. This proposal would permit the Division to designate examiners to perform this function.

Presently, examiners are used by the Board of Parole for interviews with adult offenders. However, since the Youth Corrections Act provides for Division members to interview youth offenders, it is necessary to obtain a waiver by an offender if an examiner is to interview him. If a youth offender does not consent to a waiver, his interview must be delayed until a Division member can visit the institution where he is confined. This results in even greater delays when the youth offenders involved are confined in adult-type institutions.

The Board of Parole would like to institute a new program with examiners conducting a majority of the interviews with youth offenders as well as adult offenders while Board members remain in Washington to confer and make final decisions based on the information provided by the examiners. This program, which would be greatly facilitated by the enactment of this proposal will make the operation of the Board and the Youth Division much more effective and efficient.

The Task Force on Corrections of the President's Commission on Law, Enforcement and Administration of Justice recommended the use of examiners along the lines proposed here.

The Department of Justice urges the early introduction and prompt enactment of this measure.

The Bureau of the Budget has advised that the submission of this recommendation is consistent with the administration's objectives.

The committee believes that the bill is meritorious and recommends favorable consideration.

Mr. MANSFIELD. Mr. President, I thank the distinguished Senator from Kentucky (Mr. COOK), for his forbearance and patience.

Mr. President, I ask unanimous consent that the unobjected-to measures from the calendar which were passed this morning not have the rule of germaneness made applicable to them, but that the rule of germaneness start with the laying before the Senate of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HAYNSWORTH, CARSWELL, AND BLACKMUN: A NEW SENATE STANDARD OF EXCELLENCE

Mr. COOK. Mr. President, with the confirmation of Judge Harry A. Blackmun by the Senate this week, I believe we have come to the end of an era in Supreme Court history. In many respects, it has not been a proud period in the life of the U.S. Senate or, for that matter, in the life of the Presidency. Mistakes have been made by both institutions.

The Supreme Court of the United States, nevertheless, remains as the most prestigious institution in our Nation and possibly the world. For many years public opinion polls have revealed that the American people consider being a member of the Supreme Court is to hold the most revered position in our society. I am glad the High Court is held in such regard by our people. It is an indication of the respect Americans hold for the basic fabric of our stable society—the rule of law.

To the extent that the recent controversial period has eroded respect for our legal institutions, it has been a disaster. There could not have been a worse time for an attack upon the legal system in this country than in the past year when tensions and frustrations about our foreign and domestic policies literally threatened to tear us apart. Respect for law and the administration of justice has at various times in our history been the only buffer between chaos and order. During the past year this pillar of our society has been swaying in the breeze of both justified and unconscionable attacks. It is time the President and the Congress helped to put an end to the turmoil.

The President's nomination of Judge Harry Blackmun and the Senate's responsible act of confirmation is a first step. But before we move on, I think it important to attempt to review the events of the past year and to determine what meaning, if any, they have had. I have drawn some conclusions about what the proper role of the Senate should be in giving its advice and consent to Supreme Court appointments and I will offer my suggestions today.

Circumstances placed several of us in the middle of the controversies of the past year. In my own case, election to the Senate in 1968 and subsequent appointment to the Judiciary Committee brought my initial introduction to the practical application of article II, section 2 of our Constitution which reads, in part, that the President shall "nominate, and by and with the advice and consent of the Senate, shall appoint . . . judges of the Supreme Court."

The senatorial attack on the Johnson nomination of Justice Abe Fortas to be Chief Justice and its success in blocking the appointment had set some precedent for senatorial questioning in an area which had, with one exception, largely become an exclusively Presidential prerogative in the 20th century. The period of senatorial assertion had begun.

The resignation of Justice Fortas further intensified the resolve of the Senate to reassert what it considered to be its rightful role in advising and consenting to Presidential nominations to the Supreme Court.

It was in this atmosphere of senatorial questioning and public dismay over the implication of the Fortas resignation that President Nixon submitted the name of Judge Clement F. Haynsworth, Jr., of South Carolina, to fill the Fortas vacancy. Completely aside from Judge Haynsworth's competence, which was never challenged, he had a number of problems from a political point of view, given the Democrat-controlled Congress.

Since he was from South Carolina he was immediately considered to be an integral part of the so-called southern strategy which was receiving quite a lot of press comment at that time. His South Carolina residence was construed as conclusive proof that he was a close friend of the widely criticized senior Senator from that State, STROM THURMOND, whom, in fact, he hardly knew. Even though I had not determined how I would vote at this early stage in the proceedings, such an attack against the nominee rather than the nominator, in whose mind the southern strategy would be, if it existed, offended my fundamental sense of fairness.

In addition, labor and civil rights groups mobilized to oppose Judge Haynsworth on philosophical grounds. I might have had some problems along these lines myself if I had concluded that philosophical considerations were relevant. However, after an examination of the historic role of the Senate, I concluded that the relevant inquiry of this body should be into the issue of qualifications—not philosophy. Senator EDWARD KENNEDY expressed my feeling well when he said to conservatives during the floor debate on the Thurgood Marshall nomination:

I believe it is recognized by most Senators that we are not charged with the responsibilities of approving a man to be Associate Justice of the Supreme Court only if his views always coincide with our own. We are not seeking a nominee for the Supreme Court who will express the majority view of the Senate on every given issue, or on a given issue of fundamental importance; we are interested really in knowing whether the nominee has the background, experience, qualifications, temperament and integrity to handle this most sensitive, important, responsible job.

The ethical questions which were raised about Judge Haynsworth, I concluded, were certainly relevant to the proper inquiry by the Senate into qualifications for appointment. Also, distinction and competence would bear upon the question of qualifications, but Judge Haynsworth's ability was conceded even by his opponents and thus was never a factor in the debate. We were left in the Haynsworth case, then, with the task of determining whether he had violated any existing ethical standards before we could completely satisfy the requirement that he be qualified for elevation to the High Court.

First, it was essential to ascertain what, if any, impropriety Judge Haynsworth had committed. So, I looked to the facts. The controlling statute in the situations where judges might potentially disqualify themselves was 28 United States Code, which reads:

Any Justice or Judge of the United States shall disqualify himself in any case in which he has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or his attorney as to render it improper, in

his opinion, for him to sit on the trial, appeal, or other proceeding therein.

In addition, Canon 29 of the American Bar Association Canons of Judicial Ethics was pertinent in that it provided:

A judge should abstain from performing or taking part in any judicial act in which his personal interests are involved.

The first instance cited by Judge Haynsworth's opponents as an ethical violation was the much celebrated labor case, *Darlington Manufacturing Co.* v. *NLRB*, 325 F. 2d 682, argued before and decided by the fourth circuit in 1963. The facts showed that a vending machine company, Carolina Vend-A-Matic, of which Judge Haynsworth had been one of the original incorporators 7 years before he went on the bench, had a contract to supply vending machines to one of Deering-Millikin's plants. At the time Judge Haynsworth went on the bench in 1957, he orally resigned as vice president of the company but continued to serve as a director until October 1963, at which time he resigned his directorship in compliance with a ruling of the U.S. Judicial Conference. During 1963, the year the case was decided, Judge Haynsworth owned one-seventh of the stock of Carolina Vend-A-Matic.

Suffice it to say that all case law in point, on a situation in which a judge owns stock in a company which merely does business with one of the litigants before him, dictates that the sitting judge not disqualify himself. As John P. Frank, the leading authority on the subject of judicial disqualifiaction testified:

It follows that under the standard federal rule Judge Haynsworth had no alternative whatsoever. He was bound by the principle of the cases. It is a Judge's duty to refuse to sit when he is disqualified, but it is equally his duty to sit when there is no valid reason not to . . . I do think is it perfectly clear under the authority that there was virtually no choice whatsoever for Judge Haynsworth except to participate in that case and do his job as well as he could.

The second situation which arose during the Haynsworth debate was the uproar caused by opponents over the fact that he sat in three cases in which he owned stock in a parent corporation where one of the litigants before him was a wholly owned subsidiary of that parent corporation. These cases were *Farrow* v. *Grace Lines, Inc.*, 381 F. 2d 380 (1967); *Donohue* v. *Maryland Casualty Co.*, 363 F. 2d 442; and *Maryland Casualty Co.* v. *Baldwin*, 357 F. 2d 338 (1966).

Consistently ignored during the outrage expressed over his having sat in these cases were the pleas of many of us to look to the law to find the answer to the question of whether Judge Haynsworth should have disqualified himself in these situations. Instead, the opponents decided, completely independent of the controlling statutes and canons, that the judge had a "substantial interest" in the outcome of this litigation and should, therefore, have disqualified himself. Under the statute, 28 United States Code 455, Judge Haynsworth certainly had no duty to step aside. The two controlling cases in a situation where the judge actually owns stock in one of the litigants, not as here where the stock was owned in the parent corporation, are *Kinnear-Weed Corp.* v. *Humble Oil*, 403 F. 2d 437 (5th Cir. 1968), and *Lampert* v. *Hollis Music, Inc.*, 105 F. Supp. 3 (1952). These cases interpret "substantial interest" to mean "substantial interest" in the outcome of the case not in the litigant. And here Judge Haynsworth not only did not have a "substantial interest" in the outcome of the litigation, he did not even have a "substantial interest" in the litigant, his stock being a small portion of the shares outstanding in the parent corporation of one of the litigants; there was, therefore, clearly no duty to step aside under the statute.

But was there a duty to step aside in these parent-subsidiary cases under Canon 29? The answer is an unequivocal "no." The only case available construing language similar to that of Canon 29 is found in the disqualification statute of a State In *Central Pacific Railroad Co.* v. *Superior Ct.* 296 PAC 883, the State court held that ownership of stock in a parent corporation did not require disqualification in litigation involving the subsidiary. Admittedly, this is only a State case but significantly there is no Federal case law suggesting any duty to step aside where a judge merely owns stock in the parent where the subsidiary is before the court. Presumably, this is because such a preposterous challenge has never occurred even to the most ingenious lawyer until the opponents of Judge Haynsworth arrived on the scene.

Therefore, Judge Haynsworth violated no standard of ethical behavior in the parent-subsidiary cases except that made up for the occasion by his opponents to stop his confirmation.

There was one other case in the Haynsworth proceedings which must be recalled, *Brunswick Corp* v. *Long*, 392 F. 2d 337. The facts of this case were briefly as follows: On November 10, 1967, a panel of the fourth circuit including Judge Haynsworth heard oral argument in the case and immediately after argument voted to affirm the opinion of the district court. Judge Haynsworth, on the advice of his broker, purchased 1,000 shares of Brunswick on December 20, 1967. Judge Winter, to whom the task of writing the opinion had been assigned on November 10, the day of the unanimous decision, circulated his opinion on December 27. Judge Haynsworth noted his concurrence on January 3, 1968, and the opinion was released on February 2, 1968. Judge Haynsworth testified that he completed his participation, in terms of the decisionmaking process, on November 10, 1967, approximately 6 weeks prior to the decision to buy Brunswick stock. Even if one concedes that Judge Haynsworth sat while he owned Brunswick, he did not have a "substantial interest" in the outcome of the litigation under 28 U.S.C. 455, and certainly he did not have a "substantial interest" in the litigant itself.

There were other trumped-up charges against Judge Haynsworth but these I have recounted were the major factors used to defeat him. It is clear to any fair-minded reader that the judge violated no existing standard of ethical conduct, just the one created for the occasion by those who sought to defeat him for political gain. As his competence and ability were unassailable, the opponents could not attack him for having an undistinguished record of achievement. The only alternative available was the hope that they could first create a new standard; second, apply this new standard to Haynsworth retroactively making him appear to be insensitive; third, convey the newly created appearance of insensitivity to the people by way of the press; and fourth, sit back and wait until the politicians in the Senate responded to an aroused public.

As I said in a speech on the floor of the Senate on November 14, 1969, the Senate was, in essence, denying Clement Haynsworth a fair trial—a trial based upon the law and the facts as they existed, not the law and facts as contrived. I also remember that I pointed out that the Supreme Court, which the opponents had admired so greatly, had built its reputation for fairness by protecting the little man against what would have been the popular will if a vote were taken. I say this because a recent Gallup poll revealed that the American people did not even believe in the guarantees of the Bill of Rights. It was the Supreme Court of the past 15 years which stood as a buffer against public opinion to retain the constitutional guarantees to which all individual Americans are entitled. Yet the Senate of the United States could not rise above a public aroused by insinuation and innuendo to give a nominee for that same Court, which has done so much to protect individual liberty, a fair trial.

Mr. President, it was a low point in the history of the U.S. Senate.

Subsequent to the defeat of Judge Haynsworth, President Nixon sent to the Senate the name of Judge G. Harrold Carswell of Florida and the fifth circuit. He, too, had an initial problem in that he came from the South and was also considered to be a part of the southern strategy. This should have been, as it should have been for Haynsworth, totally irrelevant to considerations of the man and his ability. But, surely, it had an effect.

I was troubled at the outset of the hearings over reports of statements Judge Carswell had made as a youthful candidate for the legislature. But remembering the relevant inquiry of the Senate, as I saw it, I limited my examination to the issue of qualifications. As I pointed out earlier, there are several factors which describe what I call my Haynsworth test:

Competence, achievement, temperament, judicial integrity, and nonjudicial record.

Judge Haynsworth would not have passed my Haynsworth test had he, in fact, been guilty of some ethical impropriety—that is, if his judicial integrity had been compromised by violations of any existing standard of conduct. His competence, achievement, temperament, and the record of his life off the bench had never been questioned, but a breakdown in any of these areas might have been fatal also.

The judicial integrity, which I have described as a violation of existing standards of conduct for Federal judges, was never in question in the Carswell pro-

ceedings, since he owned no stocks and had not been involved in any business ventures through which a conflict might arise. Certainly, his nonjudicial record was never questioned, nor was that a factor raised against any nominee in this century to my knowledge. When I refer to nonjudicial activities I make reference to such potential problems as violations of Federal or State law or such personal problems as alcoholism. In other words, debilitating factors unrelated to sitting on the bench.

However, all the other factors making up my Haynsworth test were raised in the Carswell case and caused me some problem from the later stages of the hearings up to and until the vote.

First, as to the question of competence, Judge Carswell had been reversed while a U.S. district judge more than twice as often as the average Federal district judge in the country. Reversal percentage alone, without interpretation, might not have been significant, but Judge Carswell's reversals included an overwhelming number of cases in noncontroversial stable areas of the law where his sole duty was to accurately interpret and apply the law as laid down by higher authority.

Second, in the area of achievement, he was totally lacking: He had no publications, his opinions were rarely cited by other judges in their opinions, and he had not developed judicial expertise in any area of the law.

His temperament was certainly questionable. There was unrebutted testimony that he was hostile to a certain class of litigants—namely, those involved in litigation to insure the right to vote to all citizens regardless of race pursuant to the Voting Rights Act of 1965.

And, finally, a telling factor was his inability to secure the support of his fellow judges on the fifth circuit. To the contrary, all fifth circuit judges had supported Judge Homer Thornberry when he was appointed in the waning months of the Johnson Presidency, even though that was not considered an outstanding appointment by many in the country. And, of course, all the judges of the fourth circuit had supported Judge Haynsworth. I considered it highly unusual and significant that Judge Carswell could not secure the support of his fellow judges, especially when one considers that they assumed at that time that they would have to deal with him continually in future years should his nomination not be confirmed. This was, of course, prior to his decision to leave the bench and run for political office, thus confirming my worst suspicions about his devotion to being a member of the Federal judiciary.

My conclusion about Judge Carswell was that he fell short of the mark in three of the five criteria which I have labeled my Haynsworth test. This conclusion compelled a no vote. As we know, Judge Carswell was not confirmed.

President Nixon then sent to the Senate the name of Judge Harry A. Blackmun of the eighth circuit. Judge Blackmun had an initial advantage which Judges Haynsworth and Carswell had not enjoyed—he was not from the South. Once again in judging the nominee, I applied the Haynsworth test. The following were my conclusions.

Judge Blackmun's competence, temperament, and a nonjudicial record were quickly established by those charged with investigating the nominee, and were, in any event, never questioned, as no one asked the Judiciary Committee for the opportunity to be heard in opposition to the nomination.

In the area of achievement or distinction, Judge Blackmun had published three legal articles: "The Marital Deduction and Its Use in Minnesota," Minnesota Law Review, December 1951; "The Physician and His Estate," Minnesota Medicine, October 1953; and "Allowance of In Forma Rapueris in Section 2255 and Habeas Corpus Cases," 43 FRD 343 (1968).

In addition, at the time of his confirmation, he was chairman of the Advisory Committee on Research to the Federal Judiciary Center and a member of the Advisory Committee on the Judge's Function of the American Bar Association Special Committee on Standards for the Administration of Criminal Justice.

Also, he had achieved distinction in the areas of Federal taxation and medico-legal problems and was considered by colleagues of the bench and bar to be an expert in these fields.

The only question raised about Judge Blackmun was in the area of judicial integrity or ethics. Judge Blackmun, during his years on the eighth circuit, sat in three cases in which he actually owned stock in one of the litigants before him. *Hanson* v. *Ford Motor Co.*, 278 F. 2d 586 (1960); *Kotula* v. *Ford Motor Co.*, 338 F. 2d 732 (1964); and *Mahoney* v. *Northwestern Bell Telephone Co.*, 377 F. 2d 549 (1967). In a fourth case, *Minnesota Mining and Manufacturing Co.* v. *Superior Insulating Co.*, 284 F. 2d 478 (1960), Judge Blackmun, exactly as Judge Haynsworth in Brunswick bought shares of one of the litigants after the decision but before the denial of a petition for rehearing.

Mr. President, you will remember that Judge Haynsworth's participation in Brunswick was criticized as showing insensitivity to judicial ethics but Judge Blackmun, who did exactly the same thing in the 3M case was not so criticized.

As I pointed out earlier, Judge Haynsworth never sat in a case in which he owned stock in one of the litigants but, rather, three cases in which he merely owned stock in the parent corporation of the litigant-subsidiary, a situation not unethical under any existing standards, or even by the wildest stretch of any imaginations, except those of the anti-Haynsworth leadership.

Judge Blackmun, on the contrary, committed a much more clearcut violation of what we might label the Bayh standard. He actually sat in three cases in which he owned stock in one of the litigants. Senator Bayh ignores this breach of his Haynsworth standard with the following interesting justification:

> He discussed his stock holdings with Judge Johnson, then Chief Judge of the Circuit, who advised him that *his holdings did not constitute a "substantial interest" under 28 U.S.C. 455* and that he was obliged to sit in the case. There is no indication that Judge Haynsworth ever disclosed his financial interests to any colleague or to any party who might have felt there was an apparent conflict, before sitting in such a case.

Judge Haynsworth did not inform the lawyers because under existing fourth circuit practice he found no significant interest and, thus, no duty to disclose to the lawyers. And, Judge Blackmun did not inform any of the lawyers in any of the cases in which he sat, either. Judge Blackmun asked the chief judge his advice and relied upon it. Judge Haynsworth was the chief judge.

Chief Judge Johnson and Chief Judge Haynsworth both interpreted the standard, as it existed, not as the Senator from Indiana later fabricated it. That interpretation was, as the supporters of Judge Haynsworth reported it. According to Chief Judge Johnson, 28 U.S.C. 455, as reported by Senator BAYH, meant:

> That a judge should sit regardless of interest, so long as the decision will not have a significant effect upon the value of the judge's interest.

In other words, it is not interest in the litigant but interest in the outcome of the litigation. But even if it were interest in the litigant, the interests of Blackmun were de minimis and the interests of Haynsworth were not only de minimis but were one step removed—that is, his interest was in the parent corporation where the subsidiary was the litigant. And the case law is, as I pointed out earlier, that in the parent-subsidiary situation there is no duty to step aside.

As Mr. Frank pointed out to the Judiciary Committee during the Haynsworth hearings, where there is no duty to step aside, there is a duty to sit. Judge Haynsworth and Judge Blackmun sat in these cases because under existing standards, not the convenient ad hoc standard of the Haynsworth opponents, they both had a duty to sit.

The Senator from Indiana also argues that since Judge Blackmun stepped aside in *Bridgeman* v. *Gateway Ford Truck Sales*, No. 19,749—February 4, 1970, arising after the Haynsworth affair, a situation in which he owned stock in the parent Ford which totally owned one of the subsidiary litigants, he has "displayed a laudable recognition of the changing nature of the standards of judicial conduct." Well, of course, Judge Blackmun stepped aside after seeing what Judge Haynsworth had been subjected to. Haynsworth did not have a subsequent opportunity to step aside in such situations since the Bayh rule was established over his "dead body." I am certain that Judge Haynsworth is now complying with the Bayh test to avoid further attacks upon his judicial integrity just as Judge Blackmun did in Bridgeman.

Finally, what conclusions can be drawn of this time in the history of our highest court and, for that matter, the history of our country.

First, I think it is safe to say that anti-southern prejudice is still very much alive in the land and particularly in the Senate. Although, I would not say that this alone caused the defeat of Haynsworth and Carswell, certainly it was a factor. The fact that so many Senators were willing to create a new ethical standard for Judge Haynsworth in November 1969, in order to insure his defeat and then ignore even more flagrant viola-

tions of this newly established standard a mere 6 months later in May 1970, can only be considered to smack of sectional prejudice.

Another ominous aspect of the past year's events has been that we have seen yet another example of the power of the press over the minds of our people. In saying this, I do not accuse the working press of distorting the news. They were simply reporting to the Nation the accusations of the Senator from Indiana and others. These accusations were interpreted by an uninformed public to be conclusive proof of Judge Haynsworth's impropriety. The press must remain unfettered, but we must have the courage to stand up to those who would use it for their own narrow political advantage to destroy men's reputations, and more importantly, the reputation of our judicial system including the Supreme Court itself. Fundamental standards of fairness require that such unconscionable efforts not pass into the history books unrebutted.

Some good, however, has come from this period. Senatorial assertion against an all-powerful Executive, whoever he may be, whether it is in foreign affairs or in Supreme Court appointments, is good for the country. Such assertions help restore the constitutional checks and balances between our branches of Government, thereby helping to preserve our institutions and maintain our individual liberties.

Out of all this, what has the Executive learned? Well, President Johnson learned that the Senate would be very reluctant ever again to approve the nominations of personal friends and cronies to the Nation's highest court. President Nixon learned that a high degree of competence would now be required of all nominees and that merely having sat on the Federal bench and avoiding being censured or impeached would not be enough evidence of the requisite distinction for elevation to the Supreme Court.

And what has the junior Senator from Kentucky learned about the proper role of the Senate in regard to Supreme Court nominations? Well, quite a lot more than he knew in the beginning, which was nothing.

As a result of my deep involvement in this year of rejected and approved Supreme Court nominees, I have attempted to draw a standard which I believe the Senate should apply to these nominations, and I recomend them to this body.

At the outset, let us discard the philosophy of the nominees, philosophy should not be considered by the Senate. This happened quite often in the 19th Century and the result was to make a political football out of the Supreme Court. The President is elected by the people presumably to carry out a certain program. The Constitution gives to him the power to nominate. If the nomination power had been given to the Senate, as was once considered during the debates at the Constitutional Convention, then it would have been proper for the Senate to consider philosophy. The Senate's role, as I see it, is to advise and consent to the nomination, and thus, as the Constitution puts it, "to appoint." This, I believe, taken within the context of modern times, means an examination into the qualifications of the President's nominee.

In examining the qualifications of a candidate for the Supreme Court, I suggest the use of the criteria which I outlined earlier, and let me repeat them.

First, the nominee must be judged competent. He should, of course, be a lawyer, to my way of thinking, although the Constitution does not require it. Judicial experience might satisfy competence, although I would certainly not restrict the President to naming sitting judges. Legal scholars as well as practicing lawyers might well be found competent.

Second, the nominee must be judged to have obtained some level of achievement or distinction. After all, it is the Supreme Court of the United States we are considering—not the police court in Hoboken, N.J., or even a U.S. district or circuit court. This can be established by writings, but lack of publications alone would not be fatal. Reputation at the bar and bench would be significant. Quality of opinions if a sitting judge, or appellate briefs if a practicing attorney, or articles and other publications if a law professor, might establish distinction. Certainly, the acquisition of expertise in certain areas of the law would be an important plus in establishing the level of achievement of the nominee.

Third, temperament could be significant in some cases. Although difficult to establish and not as important as the other criteria I am suggesting, temperament might become a factor where, for example, a sitting judge was hostile to a class of litigants or abusive to lawyers in court.

Fourth, the nominee, if a judge, must have violated no existing standard of ethical conduct. If the nominee is not a judge, he must not have violated the canons of ethics and statutes which apply to the standard of conduct required of members of the bar.

Mr. President, fifth, and finally, the nominee must have a clean record in his nonjudicial or nonlegal life. He should be free of criminal conviction and not possessed of deliberating personal problems, for example, alcoholism or drug abuse. However, this final criteria would rarely, if ever, come into play, due to the intensive personal investigations customarily employed by the Executive before nominations are sent to the Senate.

In conclusion, this is what I have called my "Haynsworth test." I pass it along to my colleagues for what use they choose to make of it in the future. I have tried to exercise my individual judgment in advising and consenting to presidential nominees to the Supreme Court in a responsible manner.

These guidelines, I now leave behind, a fitting epilog, I hope, to an unforgettable era in the history of the Supreme Court.

The PRESIDING OFFICER (Mr. HANSEN). The time of the Senator has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the junior Senator from Kenutcky may have some additional time, not to exceed one-half hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. COOK. I yield.

Mr. HRUSKA. Mr. President, it is not often that the Senate has been privileged to listen to as thoughtful and as constructive an analysis of a very trying and distressing chapter in its distinguished history.

I think that we have had that privilege today. I should like to commend the junior Senator from Kentucky for that analysis. This logical approach, Mr. President, is typical of the Senator from Kentucky.

He has shown during his tenure on the Judiciary Committee a sound understanding of the law and a good grasp of legal principles. He has repeatedly shown his power of analysis. He and I do not always arrive at the same conclusion. This does not diminish my respect for him but reaffirms my appreciation for his keen intellect and powers of reason. I always listen carefully to his arguments.

Generally, he has made a splendid contribution to the work of the Judiciary Committee.

His conclusion and observations are sound and logical. They do set the record straight concerning Haynsworth and Blackmun in some very substantial respects.

Mr. COOK. Mr. President, I thank the Senator.

Mr. SPONG. Mr. President, will the Senator yield

Mr. COOK. Mr. President, I yield to the distinguished Senator from Virginia.

Mr. SPONG. Mr. President, the junior Senator from Kentucky has, I believe, rendered the Senate a service by his remarks this morning. Perhaps I am prejudiced with regard to some of his observations. In the cases of Judge Haynsworth and Judge Carswell, he and I arrived at the same conclusion for many of the same reasons.

In outlining what Senator COOK has called his "Haynsworth test," he has spelled out the factors to be considered in the role of advise and consent for Supreme Court nominations. During the Haynsworth debate, I stated the following:

> In discussing earlier nominations, I have stated—in defining my own views of the role of advise and consent—that judicial philosophy and partisan politics have no place in the consideration of a nominee for the Supreme Court. A Senator should review carefully the nominee's qualifications—his background, experience, integrity, and temperament, mindful that this is the Nation's highest judicial tribunal and that minimal standards are not the yardstick by which a nominee should be measured.

I spent several hours analyzing those cases in which it was contended Judge Haynsworth should have disqualified himself, and concluded that his failure to do so did not rise to the level of ethics.

On last Tuesday I supported Judge Blackmun. I did so mindful that he had participated in three cases in which he owned stock in one of the litigants. Having determined that Judge Haynsworth had breached no ethical standards, I

reached the same conclusion with regard to the circumstances surrounding Judge Blackmun's participation.

Again, I commend the Senator from Kentucky for his remarks. I am sure that many of us hope that this rather sad period of history for both the Senate and the Supreme Court, beginning with Justice Fortas' nomination and concluded this week with the Blackmun confirmation will become ancient history. Nevertheless, the record concerning these nominations has been improved by Senator COOK's contribution this morning.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. COOK. Mr. President, I yield now to the junior Senator from Tennessee.

Mr. BAKER. Mr. President, I commend the distinguished junior Senator from Kentucky on his excellent discussion of the role of the Senate in the exercise of its constitutionally mandated function to advise and consent to the nomination of a Supreme Court Justice. I believe that Senator COOK has demonstrated great diligence in his efforts on the Judiciary Committee and on the Senate floor on questions involving recent nominations.

As we all are aware, four of the last six nominations to the Supreme Court that have been submitted to the Senate by Presidents Johnson and Nixon have become embroiled in serious controversy. Throughout this period of time there has been considerable discussion as to the role of the Senate in the performance of its advise and consent function. Dispute has arisen with regard to the limits of authority of the Senate in confirming or rejecting a nomination of the President.

Of course, the Constitution provides that it is the right and duty of the President to submit to the Senate a nominee of his choosing. If the Senate believes that it is not wise or advisable that a nomination be confirmed it has the constitutional responsibility to reject the nominee. For the Senate to do otherwise would be an abdication of its constitutional responsibility, a responsibility that was intended to be real, not nominal or apparent.

I believe that it is important that we consider in conjunction with the remarks of the junior Senator from Kentucky the underlying reasons for the failure of the Senate to confirm the nominations of Fortas, Thornberry, Haynsworth, and Carswell. In rejecting these nominees was the Senate motivated merely by bitter partisan political prejudice? I am sure that some of that was present with regard to each of the nominations.

Was the Senate involved with regional or sectional prejudice? I am sure that some of that was involved, but it was not determinative.

I respectfully submit that they were not the underlying reasons. There is one other reason that is of even greater importance.

I believe that it is clear that in recent years the Supreme Court has demonstrated a spirit of activism and has at times competed for the role of the legislative branch of our Government. Supreme Court decisions have altered our country's course and have directly affected the way that each of us lives. In this situation I do not find it surprising that the Senate, in the exercise of its advice and consent power would carefully scrutinize the men who have been nominated to sit in judgment on decisions that directly affect the life of every American.

In making a careful examination of each nominee, I do believe, however, that we must take great care to avoid political and regional bias and to avoid the application of double standards.

May I be so bold as to suggest that if the Supreme Court has moved into the area of social conduct with greater activism, then the Court, I happen to think, has inadvertently assumed the role of at least a quasi-legislative department of the Government.

I think it is not unlikely, nor even unreasonable, that the Senate of the United States as one of the departments of the legislative branch should then consider the nominees for that Court and that branch of the Government in a little different way than it has in the past.

We tend, I believe, to view nominees to the Supreme Court now as at least quasi-legislators rather than as judges.

I once again reserve the right to say whether that is good or bad, as the case may be. I do not say whether that is good or bad, but I suggest that it is an underlying and principal reason for the way in which we in the Senate now view the nomination of any man for the Supreme Court of the United States.

I think it is important that the Senate carefully consider the consequences of reviewing nominees on some basis other than the Haynsworth test advocated by the Senator from Kentucky. Viewing the court as quasi-legislators is undertaking a most ambitious task, because it is sailing then free of any fix on any star. It has laid aside precedent, the implied mandate of the Constitution itself, and has taken on the responsibility of judging whether a nomination is right or wrong.

I suggest that that test is one that does not devolve on the judiciary, who under the rule of law, judge on the theory of stare decises, and on precedent. When the Senate begins to judge on something other than rule of law or precedent and starts to judge whether it is desirable or undesirable that a person sit on the Supreme Court in terms of probable legislative, quasi-legislative or sociological impact, we have taken on a great task indeed. It may be that the Senate is capable of discharging that responsibility but I think it is imperative we know what we set about because it is urgently important that we provide men of competence and ability to sit on the court, and that we recognize that if we are to exercise the great undertaking of judging rightness or wrongness of a nomination on some basis or other than the rule of law, we must comport ourselves on the same basis, and I respectfully suggest we have not.

I commend the distinguished Senator from Kentucky. I have said privately and I now say publicly that if I were called upon to choose the most effective Members of the Senate, I would include him in that number. I thank the Senator for yielding.

Mr. COOK. I thank the Senator.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. COOK. I yield.

Mr. ALLEN. Mr. President, the distinguished junior Senator from Kentucky has made a most learned and scholarly address on the history of Senate consideration of nominations by President Nixon to the Supreme Court. He has prepared and submitted to the Senate a most interesting criterion to be used for the consideration of future nominees to the Supreme Court. The distinguished Senator from Kentucky is to be commended for this address. He has carefully weighed each statement and each word that has gone into the address.

I do not question any fact to which the distinguished Senator calls attention. I am deeply distressed and grieved with respect to at least two statements he makes. No issue is taken with the accuracy of those statements, although I am distressed, and I must say frankly I somewhat resent the fact that these statements can correctly be made.

I refer first to the statement:

> First, I think it is safe to say that anti-Southern prejudice is still very much alive in the land, and particularly in the Senate.

Also, I refer to the statement:

> Jack Blackmun had an initial advantage which Judges Haynsworth and Carswell had not enjoyed—he was not from the South.

Mr. President, I think it is a sad commentary on the feeling in the Senate and the feeling in the land if a nominee for the Supreme Court is to be considered in a less favorable light by the Senate if he does come from the South. The Southern States were readmitted to the Union, although, of course, at the time of the start of the conflict, it was argued that the States could not secede; but, at any rate, they were readmitted to the Union some 100 years ago. We pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation, under God, indivisible, with liberty and justice for all.

We do not ask special treatment for our section of the country. We do not ask any special favors or any different application of the laws. Far from it, we are asking at all times for uniformity, uniformity in the matter of school desegregation, uniformity in the matter of civil rights legislation, voting rights legislation, and we say that we are willing to abide by any standard that is applied uniformly throughout the country. We believe that it is wrong for an able judge from a southern State to be denied confirmation by the Senate simply because he comes from the South.

I notice that the distinguished Senator from Kentucky has called attention to the fact that—

> So many Senators were willing to create a new ethical standard for Judge Haynsworth in November 1969, in order to insure his defeat and then ignore even more flagrant violations of this newly-established standard a mere six months later in May 1970 can only be considered to smack of sectional prejudice.

We hope that the next nominee to the Supreme Court will be a judge from the South, possibly a State court judge. We hope that if that does take place and such a nominee is submitted to the Senate that there will not be any antisouthern bias as the distinguished Senator from Kentucky says exists in the Senate and throughout the land. Our people pay our Federal income taxes, we send our boys off to fight in Southeast Asia, and I might say that the State of Alabama has had 1,000 of its sons lay down their lives for our country in Vietnam since the start of that unfortunate conflict.

It is a matter of record that the southern Senators support a strong military policy for this country. We maintain law and order and adhere to the precept that all Americans are equal before the law.

So we wonder why there is any antisouthern feeling in the country and in the Senate, and we hope that, if that feeling has existed all through this time, very soon now that feeling will cease to exist. We hate to be in a body where there is feeling against the Members from our section of the country, and it is deplorable when that situation can correctly be said to exist.

I want to commend the distinguished Senator from Kentucky, whose State lies near a northerly Southern State, and who, I am sure, has many southern instincts and feelings. We appreciate those comments and welcome them, but I am hopeful that the feeling that the Senator calls attention to will cease to exist and that the Members of the Senate from other sections of the country will recognize that the South is a part of the Union and that we are entitled to equal application of the laws.

We are entitled to have our nominees to the Federal judiciary considered on their merits, and not have two strikes against them just because they come from the South.

I think the distinguished Senator from Kentucky has rendered a real service in pointing out the existence of this feeling. Only by pointing it out and getting to the bottom of it will we be able to eliminate it. I hope there is early elimination of that feeling.

I thank the Senator for yielding to me.

Mr. COOK. Mr. President, I want to thank the distinguished Senator from Alabama and advise him that I have a sister who is a constituent of his, so I want him to know that we are much closer than he might think.

Mr. President, before I yield back the floor, I would be remiss if I did not express appreciation to Mr. Mitch McConnell, in my office, who has attended with me every Judiciary Committee hearing since the nomination of Judge Burger. We have talked about this on many occasions. We have talked about the degree of standards and the formula we should have. It was through his efforts that I became convinced to do this. I would be remiss if I did not thank him for his effort and performance, and really his ability, which resulted in bringing these remarks to the floor this morning.

Mr. HOLLINGS. Mr. President, I want to commend the distinguished Senator from Kentucky (Mr. COOK) for his excellent analysis of the recent Supreme Court nominations and bringing this information to the permanent record of this body.

This thorough discussion and examination certainly underscores the major issues and considerations the U.S. Senate must evaluate when reviewing the qualifications of a nominee to the Supreme Court of the United States.

I would congratulate the Senator for his cogent remarks which place this critical issue into perspective.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, are we in the morning hour?

The PRESIDING OFFICER. Under the previous order, the Senate is conducting morning business.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may proceed for about 7 or 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOHN GRAVES

Mr. MANSFIELD. Mr. President, it is my sad duty to report to the Senate the death of a trusted, effective, and efficient former employee of this institution, Mr. John Graves.

He began his Senate career some years ago, as an elevator operator while studying at a local university. In 1963, he was appointed to the majority cloakroom. His talent and dedication won him rapid promotion and he was made assistant secretary for the majority.

Some months ago, he became physically incapacitated because of a serious back ailment. His illness was a long and painful one and resulted in the end, in his retirement for disability. It was with a sense of shock that those of us who knew him and were closely associated with him, who liked him, who valued his friendship, were informed, just an hour or so ago, of his passing.

He was a very good official of the Senate. He performed his duties with courtesy, grace, and dignity. I know that he will be missed by all Members of the Senate, and not just by the Senator from Montana, now speaking.

I extend to his wife, Karen, and to the other members of his family the deepest sympathy and condolences of the Senate.

RESERVE OFFICERS TRAINING CORPS PROGRAM

Mr. MANSFIELD. Mr. President, one institution that has come under particular attack on the American campus is the Reserve Officers Training Corps program. The ROTC is a manifestation of the Defense Department's presence on the campuses. As such, it is a convenient target for the frustration which has been engendered by the tragic and unending involvement in Indochina.

I do not believe in violence, either personal or against property as a form of protest. I do not believe in acts of destruction. Whatever the frustration with respect to the war in Indochina, the burning of ROTC installations is inexcusable and is destructive not only of property but of the rights of other students.

The law with respect to the ROTC program on campus was changed in the 88th Congress from a mandatory program on some campuses to one of local option, with each State or institution within each State permitted to make its own option with respect to ROTC. The overwhelming effect is that the ROTC is now elective. A student participating does so because he freely chooses to join. This right of students to participate in ROTC should be honored and respected.

I believe the students who become military officers by way of colleges rather than through the regular academies provide a significant and far-reaching civilian influence in the military services. They add a civilian input to the branch in which they serve. They give a very desirable dimension of civilian leadership. The students who choose the ROTC path serve their country and their fellow students very well. The option to follow the way of ROTC should be preserved. It is a valuable ingredient in retaining a civilian controlled military force in this Nation.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. STENNIS. I highly commend the Senator's presentation. I wholeheartedly agree with every major point he made in his fine statement. It challenges the better thoughts of the American people, and I think much good will come from the statement.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. WILLIAMS of Delaware. Mr. President, I want to join the Senator from Mississippi in commending the Senator from Montana on the statement he just made. I think it would be well for the students of America to read the statement and take it close to heart.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. HOLLAND. Mr. President, I commend strongly the distinguished Senator for what he has just said. I want to add, or perhaps accentuate, one thought. I think the continuance of the ROTC activities on campuses is not only of great importance to those students on the particular campuses who wish to equip themselves to serve their Nation in time of war in the event their service is needed, but I think it is a very, very important ingredient of the entire defense structure of our Nation, because in any war of any size that we have ever had, at least in my experience, we have found that the Reserve officers exceed in numbers those of the Regular branches of the military services.

It seems to me that it would serve as not only a great disservice to the areas represented in the schools where ROTC is sought to be excluded, but a great disservice to our Nation, because our Nation needs the services of ROTC trainees coming from every part of the Nation, so that every part of the Nation may feel that it has its own part in the Armed Forces of our Nation, and in those who lead those Armed Forces as Reserve officers in time of grave national need.

I strongly commend the distinguished majority leader, and think that what he has said is in support of a strong and secure United States of America.

Mr. MANSFIELD. I thank the distinguished Senator. May I just emphasize the main points in the statement I have made today?

First, to the best of my knowledge, it is not forced on any university or college.

Second, no student to the best of my knowledge is forced to enroll in any ROTC course.

Then I wish to emphasize the civilian input to the various branches in which the ROTC officers serve, the very desirable additional dimension of civilian leadership, and the significant and far-reaching civilian influence in the military services which results. To quote the last line of my prepared remarks again: It is a valuable ingredient in retaining a civilian controlled military force in this Nation.

THE PROPOSED DECLARATION OF WAR

Mr. MANSFIELD. Mr. President, in the Billings, Mont., Gazette of May 4, 1970, there was published an editorial calling for the introduction in the Congress of a declaration of war in Southeast Asia and then the defeat of this measure. The proposition is advanced as a way of bringing the tragic war in Indochina to an end. I have studied the editorial very carefully. It has the merit of blowing away the chaff and going to the constitutional question which is involved. In a sense, it suggests a shortcut to the end which the President and everyone else seeks.

The editorial is entitled "Declare It a War—Or Get Us Out," and reads as follows:

Everybody who wants to declare war, stand up and be counted.

It's come to that in the Southeast Asian mess.

Whatever you call it, that's a war we are getting deeper and deeper into.

So let's make it constitutional.

The Constitution says it is the Congress' prerogative to declare war. A declaration of war thereby should be introduced in the Congress and fully debated by that body.

If it passes, the Congress should immediately institute all the wage, price and rationing controls of any full-scale war. The effects should be felt by every man, woman and child in this nation.

If it does not pass, then the U.S. should pull out of what immediately becomes an unconstitutional action. A vote on a declaration would give the people a voice through their representatives.

The Gazette therefore calls upon Sen. Mike Mansfield, the state's senior representative in the Congress, to introduce a declaration of war upon the Communist forces in Southeast Asia.

And then, Mike, lead Congress in beating it!

I find, however, that I cannot follow this course. The consequences would be a legal chaos which might well jeopardize the hundreds of thousands of Americans who are already in Vietnam and have now been involved in Cambodia through no doing of their own but rather because of what seems to me to be the excessive stretching of the Constitution by two successive administrations.

While I want to make clear my sympathy with the intent of this editorial, I think the way to work effectively toward its objective is to pass the Cooper-Church amendment which is now pending in the Senate. If we take this step in balanced and strict constitutionalism, we will also be taking the first step back out of the morass of Vietnam.

Mr. President, even though I have read the editorial in full, I ask unanimous consent that the editorial previously referred to be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DECLARE IT A WAR—OR GET US OUT

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THE REMARKABLE MR. HOOVER

Mr. HOLLAND. Mr. President, in a recent issue of the Polk County Democrat, Bartow, Fla., my hometown paper, there appeared an editorial entitled, "Glad He's Ours."

This editorial speaks of the Director of the Federal Bureau of Investigation, the Honorable J. Edgar Hoover, who has headed that department for a span of some 46 years and continues to furnish the strong leadership required of this vastly important organization.

I should like to quote one paragraph of this editorial:

Most Americans will agree on this point: we're glad he's on our side.

I ask unanimous consent that the editorial be printed in the RECORD at this point as part of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

GLAD HE'S OURS

Take him any way you like, J. Edgar Hoover is one of the most remarkable men of this century.

Forty-six years ago, at the age of 29, he was appointed head of what was then a comparatively little-known section of the Dept. of Justice. It had been created in 1908 and after 16 years was a useful if not spectacular arm of federal law enforcement.

Under Hoover's direction, the set-up was re-organized in 1934, and one year later became officially known as the Federal Bureau of Investigation. Thus, the tough, close-mouthed Hoover is the only head the FBI has had.

Under government policy, he would have been required to retire in 1965 at the age of 70. President Lyndon Johnson waived the requirement. President Richard Nixon has continued to do so.

Hoover, today almost as much of a recluse as Howard Hughes, had nothing to say to the press on this anniversary date except that he has "no intention whatsoever" of retiring. He hasn't granted a personal interview since late 1968, and speaks publicly almost entirely through the monthly FBI news letter. In this letter, Top G-Man Hoover delivers strongly-worded opinions on major topics of the day, particularly in connection with law enforcement.

He runs a taut department that is more feared and hated by the nation's criminals than any other branch of law enforcement.

Like any rugged individual, Hoover is not universally popular even with the law-abiding majority of this nation's citizens. Even his enemies, though, will agree that he is a man dedicated to his job—and one who is highly successful at getting results.

At an age when most men are gratefully anticipating approaching retirement, if they haven't already stepped out of active service J. Edgar Hoover plans to stay in harness.

Eight Presidents, from Coolidge to Nixon, have kept him on the job. Presidential candidates who have made one of their planks a promise to fire Hoover from the FBI, haven't even been able to win their party's nomination.

Most Americans will agree on this point: we're glad he's on our side.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. SPONG) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following letters, which were referred as indicated:

PROPOSED LEGISLATION TO AMEND THE FOREIGN SERVICE BUILDINGS ACT, 1926, AS AMENDED

A letter from the Deputy Assistant Secretary for Congressional Relations, Department of States, transmitting a draft of proposed legislation to amend the Foreign Service Buildings Act, 1926, to authorize additional appropriations (with an accompanying paper); to the Committee on Foreign Relations.

PROPOSED LEGISLATION TO AMEND THE CIVIL SERVICE RETIREMENT LAWS

A letter from the Acting Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend

the Civil Service Retirement Laws to authorize the payment of an annuity to a secretary of a justice or judge of the United States on the same basis as an annuity to a congressional employee or former congressional employee (with accompanying papers); to the Committee on Post Office and Civil Service.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ALLEN):

A resolution of the Legislature of the State of New York; to the Committee on Armed Services:

"RESOLUTION No. 68

"Concurrent resolution of the Senate and Assembly of the State of New York memorializing Congress to cede jurisdiction over the lands of Fort Totten to the state of New York for hospital facilities and park and recreation purposes

"Whereas, There is an evergrowing need for hospital, park and recreational facilities for the people of this state and our war veterans; and

"Whereas, At the present time at Fort Totten there is a portion of lands thereon not in use, which would be ideal for such facilities; and

"Whereas, The area surrounding Fort Totten is readily accessible to a greater number of the residents of our state particularly those living in Manhattan, the Bronx and on Long Island; and

"Whereas, Many of the finest practitioners in the medical field live in this part of our great state; and

"Whereas, The establishment of a medical center by the state in conjunction with the creation of a veterans' hospital and the further establishment of park and recreational facilities on these lands presently occupied by Fort Totten would be a step in the right direction to provide such needed medical and recreational facilities for our citizens and veterans; and

"Whereas, It is the sense of the people of the state of New York as manifested by the considered judgment of their duly elected representatives that the unused lands at Fort Totten can be readily adapted by the federal and state governments for such purposes now, therefore, be it

"Resolved (if the Senate concur), That the Congress of the United States be and it is hereby respectfully memorialized to enact with all convenient speed such legislation as may be necessary to cede to the state for such purpose jurisdiction over such lands, and such other legislation as may be necessary to authorize the creation of a veterans' hospital at Fort Totten; and be it further

"Resolved (if the Senate concur), That copies of this resolution be immediately transmitted to the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, and to each member of the Congress of the United States duly elected from the State of New York.

"By order of the Assembly,

"DONALD A. CAMPBELL,
"Clerk.

"By order of the Senate,

"ALBERT J. ABRAMS,
"Secretary."

A resolution of the Senate of the State of Hawaii; to the Committee on Foreign Relations:

"S. RES. No. 325

"Resolution requesting the President and Congress of the United States to immediately cease all military activity by U.S. personnel in Cambodia.

"Whereas, the military involvement of the United States in Vietnam has resulted in much tragedy and discord in the Nation; and

"Whereas, the frightful and disillusioning hostilities in Vietnam have torn families apart, brutally deprived young men, husbands, fathers, sons and brothers, of their lives and future, and caused youth to resist the draft and suffer exile and persecution; and

"Whereas, the spread of warfare throughout Indo-China and the commitment of United States military troops and arms to Cambodia by President Nixon does not end the war but further subjects the Nation to continuing loss of lives and human misery; and

"Whereas, the military involvement of the United States in Southeast Asia is unwarranted world policing and contrary to our humanitarian ideals; now, therefore

"Be it resolved by the Senate of the Fifth Legislature of the State of Hawaii, Regular Session of 1970, That the President and Congress of the United States be and they are hereby respectfully requested to immediately cease all military activity by United States personnel in Cambodia; and

"Be it further resolved, That duly certified copies of this Resolution be sent to the President of the United States, the Honorable Richard M. Nixon; the President of the United States Senate, the Honorable Spiro T. Agnew; and the Speaker of the United States House of Representatives, the Honorable John W. McCormack."

A concurrent resolution of the Legislature of the State of Florida; to the Committee on Foreign Relations:

"HOUSE CONCURRENT RESOLUTION No. 3758

"A concurrent resolution urging the President of the United States, the Secretary of Defense, and the Congress of the United States to make every possible effort to obtain the release and repatriation of the American prisoners of war held captive by North Vietnam

"Whereas, there is an important military and psychological struggle occurring today in Southeast Asia, and

"Whereas, many fine and brave men have given up their lives and their freedom on behalf of their country, and

"Whereas, thirteen thousand of these brave Americans have been captured by the North Vietnamese and imprisoned, and

"Whereas, the State of Florida feels a deep concern for the health and physical well-being of these men, and

"Whereas, in recent weeks the North Vietnamese have taken only slight notice of the entreaties of the concerned wives and mothers of these servicemen for information about the welfare of their husbands and son, and

"Whereas, the State of Florida feels that if the President and Congress of the United States indicate to the North Vietnamese their intense concern and interest in these men it will expedite the early release of these prisoners, Now, therefore, be it resolved by the House of Representatives of the State of Florida, the Senate Concurring:

"That Richard M. Nixon, President, United States of America, Melvin Laird, Secretary of Defense, and the Congress of the United States of America, are respectfully requested to demonstrate to the Communist leaders of the Republic of North Vietnam the feeling of the American people, all of whom strongly desire the immediate release and repatriation of all American prisoners now held by North Vietnamese forces in Southeast Asia.

"Be it further resolved that copies of this resolution signed by the officers of the House of Representatives and of the Senate of the State of Florida be dispatched to the President of the United States, the Secretary of Defense, the Speaker of the House of Representatives, and the Vice President of the United States as Presiding Officer of the Senate."

A resolution of the House of Representatives of the State of Hawaii; to the Committee on Labor and Public Welfare:

"HOUSE RESOLUTION No. 45

"House resolution requesting block education grants to the State of Hawaii from the Federal Government

"Whereas, the State of Hawaii would benefit by the adoption of a plan proposed by the Education Commission of the States, which would provide for block education grants to the States and would convert the ten per cent federal income surtax to aid to schools; and

"Whereas, it has been suggested that one-fourth of the money from the surtax go to education in 1970, some $2.75 billion; that half of the money—estimated at $5.5 billion—go in 1971, and in 1972 some nine billion dollars or seventy-five per cent go to education, until in 1973 all of the surtax money—about $14 billion—be spent on schools; and

"Whereas, the State of Hawaii concurs with the concept put forth by the Educational Commission of the States for a "Universal school system in America—a system offering free quality education to every person from the second or third year of his life through grade fourteen"; now, therefore,

"Be it resolved by the House of Representatives of the Fifth Legislature of the State of Hawaii, Regular Session of 1970, That it request the federal government, to institute a program of block education grants to the State of Hawaii; and

"Be it further resolved, That certified copies of this Resolution be transmitted to the President of the United States, to the Speaker of the House, President of the Senate, members of the Hawaii Congressional delegation and the Secretary of Health, Education and Welfare."

ENROLLED BILLS SIGNED

The ACTING PRESIDENT pro tempore (Mr. ALLEN) announced that on today, May 15, 1970, he signed the following enrolled bills, which had previously been signed by the Speaker of the House of Representatives:

S. 856. An act to provide for Federal Government recognition of and participation in international expositions proposed to be held in the United States, and for other purposes; and

S. 2999. An act to authorize, in the District of Columbia, the gift of all or part of a human body after death for specified purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Appropriations, with amendments:

H.R. 16916. An act making appropriations for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes (Rept. No. 91-871).

By Mr. FULBRIGHT, from the Committee on Foreign Relations, with amendments:

S. Con. Res. 64. Concurrent resolution to terminate certain joint resolutions authorizing the use of the Armed Forces of the United States in certain areas outside the United States (Rept. No. 91-872).

By Mr. ANDERSON, from the Committee on Interior and Insular Affairs, with an amendment:

S.J. Res. 144. Joint resolution to provide for the appropriation of funds to assist school districts adjoining or in the proximity of Indian reservations, to construct elementary and secondary schools and to provide proper housing and educational opportuni-

ties for Indian children attending these public schools (Rept. No 91–874)

PROTECTING PRIVACY AND RIGHTS OF EXECUTIVE BRANCH EMPLOYEES—REPORT OF JUDICIARY COMMITTEE ON S. 782 (S. REPT. NO. 91–873)

Mr. ERVIN. Mr. President, from the Committee on the Judiciary I report favorably, with amendments, the bill (S. 782) to protect the civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy, and I submit a report thereon.

The committee's approval of the bill is a major step toward enactment of a law to protect certain liberties which citizens who work for the Federal Government possess under the Constitution.

I believe that the fact that this bill is sponsored by 55 Senators and has such widespread support proves that it contains an idea whose time has come: That Congress has a duty to assure by law that simply because he works for government a citizen may not be coerced by that government in personal matters having nothing to do with his employment. Rather, his community activities, his thoughts, habits and beliefs and his personal family relationships are protected by the first amendment, and S. 782 is an effort to implement the guarantees in that amendment.

It is significant that this bill provides further protection to the right not to act in political matters, as well as the right to act; to the right to keep silent as well as the right to speak; to the right to agree as well as the right to dissent.

The purpose of the bill is to prohibit indiscriminate executive branch requirements that employees and, in certain instances, applicants for Government employment:

Disclose their race, religion or national origin;

Attend Government-sponsored meetings and lectures or participate in outside activities unrelated to their employment;

Report on their outside activities or undertakings unrelated to their work;

Submit to questioning about their religion, personal relationships or sexual attitudes through interviews, psychological tests, or polygraphs;

Support political candidates or attend political meetings;

The bill would make it illegal to coerce an employee to buy bonds or make charitable contributions;

It prohibits officials from requiring him to disclose his own personal assets, liabilities, or those of any member of his family unless, in the case of certain specified employees, such items would tend to show a conflict of interest;

It would provide a right to have a counsel or other person present, if the employee wishes, at an interview which may lead to disciplinary proceedings;

It would accord the right to a civil action in a Federal court for violation or threatened violation of the Act, and it would establish a Board on Employees' Rights to receive and conduct hearings on complaints of violation of the Act and to determine and administer remedies and penalties.

S. 782 is sponsored by 55 Senators. Except for subcommittee amendments providing certain exemptions for the CIA, NSA, and FBI, it is identical to S. 1035, approved by the Judiciary Committee in 1967.

This bill of rights for citizens who work for, or apply to work for, the Federal Government, was cosponsored by 54 Members of the Senate in the last Congress. When it came to the floor on September 13, 1967, it won overwhelming Senate approval by a 79 to 4 formal vote, and after absentee approvals were recorded, the total vote was 90 to 4.

Although S. 1035 died in a House Post Office and Civil Service Subcommittee in the last Congress, I believe prospects are much brighter for passage this year. Both major party platforms and position papers by both presidential candidates in 1968 pointed to a bipartisan commitment to further legislative protection for employee privacy of the nature of S. 782. The bill has been endorsed by every major employee association and union and has won widespread support from individual employees and other citizens throughout the country. Over a period of 4 years, the editorial support from major and smaller newspapers has been encouraging and enthusiastic.

I am hopeful that it will receive the same support by the Senate this year and that it will be speedily approved by the House.

It is my belief that the bill can and should be enacted without delay.

The cosponsors of the bill are Senators BAYH, BIBLE, BROOKE, BURDICK, BYRD of Virginia, CHURCH, COOK, COOPER, DODD, DOLE, DOMINICK, EAGLETON, FANNIN, FONG, GOLDWATER, GRAVEL, GURNEY, HANSEN, HARTKE, HATFIELD, HRUSKA, INOUYE, JORDAN of North Carolina, JORDAN of Idaho, MCCARTHY, MCGEE, MCGOVERN, MCINTYRE, MAGNUSON, MATHIAS, METCALF, MILLER, MONTOYA, MUNDT, MURPHY, MUSKIE, NELSON, PEARSON, PERCY, PROUTY, PROXMIRE, RANDOLPH, SAXBE, SCHWEIKER, SCOTT, SPARKMAN, SPONG, STEVENS, TALMADGE, THURMOND, TOWER, TYDINGS, WILLIAMS of New Jersey, and YARBOROUGH.

The PRESIDING OFFICER (Mr. SPONG). The report will be received and the bill will be placed on the calendar; and the report will be printed.

REPORT ENTITLED "DEVELOPMENTS IN AGING, 1969"—REPORT OF A COMMITTEE (S. REPT. NO. 91–875)

Mr. WILLIAMS of New Jersey, from the Special Committee on Aging, pursuant to Senate Resolution 316, February 16, 1970, submitted a report entitled "Developments in Aging, 1969," together with minority views, which was ordered to be printed.

EXECUTIVE REPORT OF A COMMITTEE

As in executive session, the following favorable report of a nomination was submitted:

By Mr. RANDOLPH, from the Committee on Public Works:

Brig. Gen. Frank C. Camm, Corps of Engineers, U.S. Army, to be a member of the California Debris Commission.

BILLS INTRODUCED

Bills were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. HRUSKA:

S. 3843. A bill for the relief of Armando Alimenti and his wife, Victoria Salazar Alimenti; to the Committee on the Judiciary.

By Mr. WILLIAMS of New Jersey (for himself, Mr. BENNETT, Mr. BIBLE, and Mr. MCINTYRE):

S. 3844. A bill to require under the supervision of the Securities and Exchange Commission a full and fair disclosure of the nature of interests in business franchises, and to provide increased protection in the public interest for franchises in the sale of business franchises; to the Committee on Banking and Currency.

(The remarks of Mr. WILLIAMS of New Jersey when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. MOSS:

S. 3845. A bill for the relief of Eva Semnani; to the Committee on the Judiciary.

By Mr. PROXMIRE (for himself and Mr. NELSON):

S. 3846. A bill to authorize certain uses to be made with respect to lands previously conveyed to Milwaukee County, Wis., by the Administrator of Veterans' Affairs; to the Committee on Labor and Public Welfare:

(The remarks of Mr. PROXMIRE when he introduced the bill appear later in the RECORD under the appropriate heading.)

S. 3844—INTRODUCTION OF FRANCHISE FULL DISCLOSURE LEGISLATION

Mr. WILLIAMS of New Jersey. Mr. President, on December 9, 1969, as chairman of the Small Business Subcommittee on Urban and Rural Economic Development, I announced public hearings on the Impact of Franchising on Small Business. I thought it important to schedule these hearings, for as American business enters the 1970's, the significant marketing phenomenon of this century is the amazing growth of franchising. Within the last 5 years, the number of franchisors has more than tripled. Today there are over 1,000 companies offering franchises to potential entrepreneurs who are snapping them up at the rate of 40,000 per year. This means that in the next decade, there will be approximately 500,000 new franchisees complementing the existing 600,000 franchisees now doing business.

Currently, franchising accounts for over $90 billion per year in annual sales or 10 percent of our gross national product. If franchising continues its present rate of growth into the 1970's, by the end of the decade it will account for $165 billion in sales annually.

Mr. President, franchising is not a marketing fad. It is not a flash in the pan, here today—gone tomorrow. Nor is it an overinflated business balloon, ready to burst at any time.

The concept of franchising is basically sound. It has matured and all signs point to its continuing a healthy growth and expansion on a large scale. The field of

franchising is extremely wide, as it covers business opportunities ranging from the sale of burial vaults to the performance of erotic theatrical drama.

But, Mr. President, this $90 billion a year distribution system is totally unregulated either by the Federal or State governments.

As many of my colleagues in the Senate know, my Small Business Subcommittee on Urban and Rural Economic Development just concluded 6 days of public hearings on the impact of franchising on small business. We have received over 700 communications from franchisees complaining about abuses within this system. We heard testimony from 43 witnesses who gave the subcommittee a wealth of valuable information on all aspects of franchising.

While the great majority of franchisors operate their businesses in a legitimate, ethical fashion, con artists and swindlers have been drawn to franchising by its sheet popularity. They have infiltrated this distribution system and are using it to exploit the innocent would-be small businessman who wants to own a piece of the American dream and become his own boss.

During our recent hearings, we found astonishing instances of outright fraud and deception perpetrated by unscrupulous franchisors on innocent potential small businessmen.

They make false and grossly misleading claims through poorly regulated but highly profitable advertising in respectable national newspapers and magazines.

They promise high incomes, good locations, excellent training, and quality products to the prospective franchisee.

They use high pressure tactics at franchise trade shows.

They operate in the same manner as con men have always operated—promise everything—deliver nothing. They merely separate the investor from his money by selling him a franchise that is worth little or nothing and then they move on to the next victim. And in the typical con artist fashion, they attack the vulnerable and the weak. In selling their worthless franchises, they approach the senior citizens and the aspiring minority entrepreneurs with hard-sell promises of riches and success. They seek out the unsophisticated at franchise trade shows and lure them into the back alleys of franchising with similar claims of big profits.

There is an understandable need for a truly effective industry-wide code of ethics. Our hearings showed clearly that the leaders in franchising, in their desire to ride the crest of the current profit wave, left the system defenseless against the invading "blue suede shoe boys" by their failure to implement effective self-policing machinery.

I would much prefer to see the industry regulate itself, but it simply has not happened. And at this late date, too much is at stake to gamble on self-regulation in the near future.

The only course of action to provide protection for the potential franchise holder and to restore an ethical balance to franchising is legislative action at either the State or Federal level.

I believe franchising, by its very unique nature, should be regulated by a properly drawn Federal law.

Therefore, Mr. President, I am today introducing a bill that will better protect and better inform potential small business franchisees by requiring franchisors to make a full and complete disclosure of their business practices.

My bill, the Franchise Full Disclosure Act of 1970, will require all franchisors to submit important financial and other relevant business data to the Securities and Exchange Commission for approval prior to the lawful sale of any franchise.

Under this bill, any franchise sale is voidable at the franchisee's option if he was not given a copy of the registered information at least 48 hours prior to the time he signed the contract. This provision will help eliminate the "hot box" treatment so commonly used at franchise shows.

My bill makes it unlawful for a franchisor to make false or misleading statements or representations in selling a franchise. This provision is designed to cut down or eliminate another form of franchise abuse we discovered—fraudulent or sucker-bait advertising. The SEC is given the injunctive power to prevent false and deceptive advertising.

Another feature of this bill requires a franchisor to disclose any financial arrangements made with a celebrity or public figure for the use of his name in connection with any of the franchisor's business operations.

Aside from the civil causes of action a franchisee can bring, my bill also provides for criminal penalties for persons who will fully violate its provisions.

I submit that my Franchise Full Disclosure Act will enhance the entire concept of franchising by forcing the swindlers out, while truly assisting the legitimate operators.

No honest franchisor has anything to fear from my bill, as it will assist, rather than harm him by making more investment opportunities available in the future.

I should also make this fact perfectly clear: my bill will not guarantee the successful operation of a franchise—only hard work and perseverance can do that.

Nor will it resolve all of the problems in franchising—only hard work by the franchisors, in cooperation with their franchisees, can do that.

But I can guarantee that my legislation will provide the first real step toward insuring the continuation of a dynamic economic force within our private business sector which may well set the pattern of small business growth for the future.

There is ample precedent for this type of legislation, as the Securities Act of 1933 and the Interstate Land Sales Full Disclosure Act of 1968 have been relatively successful attempts by Congress to protect the investor. My bill is intended to accomplish the same results in the hybrid marketing phenomenon known as franchising.

Mr. President, I ask unanimous consent that my bill be printed in full in the RECORD at this point.

The PRESIDING OFFICER (Mr. ALLEN). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3844) to require under the supervision of the Securities and Exchange Commission a full and fair disclosure of the nature of interests in business franchises, and to provide increased protection in the public interest for franchises in the sale of business franchises, introduced by Mr. WILLIAMS of New Jersey (for himself, Mr. BIBLE, Mr. BENNETT, and Mr. MCINTYRE), was received, read twice by its title, referred to the Committee on Banking and Currency, and ordered to be printed in the RECORD, as follows:

S. 3844

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Franchise Full Disclosure Act of 1970".

FINDINGS AND PURPOSE

SEC. 2. The Congress finds and declares that it is in the public interest to enact protective legislation against fraud and other practices which have developed in the interstate and nation-wide sale of a wide variety of business franchises by the use of the mails and instrumentalities of interstate commerce. The Congress further finds that in consequence of fraud and other practices numerous purchasers of business franchises have suffered substantial losses as a result of the failure or omission by franchisors to provide full and complete disclosure concerning the prior business experience of the franchisor, the nature of the franchisor-franchisee relationship, the nature of the franchise contract, the prospects of the franchised business and other facts essential to a businessman's determination of the desirability and profitability of the franchise. In consequence of the above findings, the Congress determines that it is in the public interest to (1) require that each prospective franchisee be provided with the information necessary to make an intelligent decision regarding franchises being offered for sale, (2) prohibit the sale of franchises that may lead to fraud or involve the likelihood that the franchisor's promises will not be fulfilled, and (3) provide such administrative, civil, and criminal remedies as are necessary to make such requirements and prohibitions effective.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "Commission" means the Securities and Exchange Commission.

(2) The term "person" means an individual, corporation, partnership, joint venture association, or incorporated organization.

(3) The term "franchise" means a contract or agreement, either expressed or implied, oral or written, between two or more persons under which (A) a franchisee is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan or system prescribed in substantial part by the franchisor, (B) the operation of the franchisee's business pursuant to such plan or system is substantially associated with the franchisor's trademark, service mark, trade name, logotype, advertising, or other commercial symbol designating the franchisor or its affiliate, and (C) the franchisee is required to pay, directly or indirectly, a franchise fee. Unless specifically stated otherwise, such term includes an area franchise as hereinafter defined.

(4) The term "franchisor" means a person who grants a franchise.

(5) The term "franchisee" means a person to whom a franchise is granted.

(6) The term "area franchise" means any contract or agreement between a franchisor and a subfranchisor whereby the subfranchisor is granted the right, for a consideration given in whole or in part for such right, to sell or negotiate the sale of franchises in the name of or in behalf of the franchisor.

(7) The term "subfranchisor" means a person to whom an area franchise is granted.

(8) The term "franchise fee" means any fee or charge that a franchisee or subfranchisor is required to pay or agrees to pay for the right to enter into a business under a franchise agreement, including but not limited to, any such payments for such goods or services.

(9) The term "sale" or "sell" includes any contract of sale or disposition of a franchise, or interest in a franchise, for value. The term "offer", "offer for sale", or "offer to sell" includes any attempt or offer to dispose of or solicitation of an offer to buy a franchise, or an interest in a franchise, for value.

(10) The term "interstate commerce" means trade or commerce in franchises or transportation or communication relating thereto among the several States, or between the District of Columbia, any territory of the United States, or any foreign country and any State, territory, or the District of Columbia, or within the District of Columbia.

(11) The term "territory" means the Commonwealth of Puerto Rico, the Canal Zone, the Virgin Islands, and the insular possessions of the United States.

(12) The term "registration statement" means the statement provided for in section 6 and includes any amendment thereto and any report, document, or memorandum filed as a part of such statement or incorporated therein by reference.

(13) The term "write" or "written" shall include printed, lithographed, or any other means of graphic communication.

(14) The term "prospectus" means any prospectus, circular, notice, advertisement, lettter or communication, written, or by radio or television, which offers any franchise for sale or confirms the sale of any franchise, except that (A) a communication sent or given after the effective date of the registration statement shall not be deemed a prospectus if it is proved that prior to or at the same time with such communication a written prospectus meeting the requirements of section 9 was sent or given to the person to whom the communication was made, and (B) a notice, circular, communication, or letter in respect of a franchise shall not be deemed to be a prospectus if it states from whom a written prospectus meeting the requirements of section 9 may be obtained, and does no more than identify the franchise, state the price thereof, state from whom it can be purchased, and such other information as may be prescribed by rule or regulation of the Commission.

AUTHORITY TO EXEMPT FRANCHISES

Sec. 4. The Commission may from time to time by its rules and regulations, and subject to such terms and conditions as it may prescribe, exempt any class of franchises if it finds that the enforcement of this Act with respect thereto is not necessary in the public interest or for the protection of franchisees by reason of the small amount involved or the limited character of the offering.

PROHIBITIONS RELATING TO SALE OF FRANCHISES; VOIDABILITY OF CONTRACTS OR AGREEMENTS

Sec. 5. (a) It shall be unlawful for any franchisor, subfranchisor, or agent thereof, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or in the mails—

(1) To sell or offer for sale any franchise unless a registration statement with respect to such franchise is in effect in accordance with section 8, and a printed prospectus, meeting the requirements of section 9 is furnished the prospective franchisee at least forty-eight hours in advance of the signing of the contract or agreement for sale by the franchisee.

(2) In selling or offering for sale any franchise—

(A) to employ any device, scheme or artifice to defraud;

(B) to obtain money or property by means of a material misrepresentation with respect to any information included in the registration statement or the prospectus or with respect to any other information pertinent to the franchise and upon which the franchisee relies, or

(C) to engage in any transaction, practice or course of business which operates or would operate as a fraud or deceit upon a franchisee.

(b) Any contract or agreement for the purchase of a franchise covered by this Act shall be voidable at the option of the franchisee, if a prospectus meeting the requirements of section 9 is not furnished the prospective franchisee at least forty-eight hours in advance of his signing such contract or agreement.

REGISTRATION OF FRANCHISES

Sec. 6. (a) Any franchises may be registered by filing with the Commission a registration statement meeting the requirements of this Act and such rules and regulations as may be prescribed by the Commission in furtherance of the provisions of this Act. A registration statement shall be deemed effective only as to the franchises specified therein.

(b) At the time of the filing of the registration statement the franchisor shall pay to the Commission a fee of not more than $1,000, which the Commission shall by rules and regulations determine.

(c) The filing of a registration statement or of an amendment thereto shall be deemed to have taken place upon receipt thereof accompanied by the payment of the fee required by subsection (b).

(d) The information contained in or filed in any registration statement shall be made available to the public under such regulations as the Commission may prescribe and copies thereof shall be furnished every applicant at such reasonable charge as the Commission may prescribe.

INFORMATION REQUIRED IN REGISTRATION STATEMENT

Sec. 7. The registration statement shall contain the information and be accompanied by the documents specified in schedule A, except that the Commission may by rules and regulations provide that any such information or document need not be included in respect of any class of franchises if it finds that the requirement of such information or document is inapplicable to such class and that disclosure fully adequate for the protection of investors is otherwise required to be included within the registration statement. Any such registration statement shall contain such other information and be accompanied by such other documents as the Commission may by rules and regulations require as being necessary or appropriate in the public interest or for the protection of investors.

EFFECTIVE DATE OF REGISTRATION STATEMENT AND AMENDMENTS THERETO

Sec. 8. (a) Except as hereinafter provided, the effective date of a registration statement shall be the twentieth day after the filing thereof or such earlier date as the Commission may determine having due regard to the public interest and the protection of purchasers. If any amendment to any such statement is filed prior to the effective date of such statement, the registration statement shall be deemed to have been filed when such amendment was filed; except that an amendment filed with the consent of the Commission, prior to the effective date of the registration statement, or filed pursuant to an order of the Commission, shall be treated as part of the registration statement.

(b) If it appears to the Commission that a statement or any amendment thereto is on its face incomplete or inaccurate in any material respect, the Commission shall so advise the franchisor within a reasonable time after the filing of the statement or amendment, but prior to the date the statement or amendment would otherwise be effective. Such notification shall serve to suspend the effective date of the statement or the amendment until thirty days after the franchisor files such additional information as the Commission shall require. Any franchisor, upon receipt of such notice, may request a hearing and such hearing shall be held within twenty days of receipt of such request by the Commission.

(c) If at any time subsequent to the effective date of a registration statement, a change shall occur affecting any material fact required to be contained in the statement, the franchisor shall promptly file an amendment thereto. Upon receipt of any such amendment the Commission may, if it determines such action to be necessary or appropriate in the public interest or for the protection of purchasers, suspend the registration statement until the amendment becomes effective.

(d) If it appears to the Commission at any time that the registration statement includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, the Commission may, after notice and an opportunity for hearing (at a time fixed by the Commission) within fifteen days after such notice, issue an order suspending the effectiveness of the registration statement. When such statement has been amended in accordance with such order, the Commission shall so declare and thereupon the order shall cease to be effective.

(e) The Commission is empowered to make an examination in any case in order to determine whether an order should issue under subsection (d). In making such examination, the Commission, or any officer or officers designated by it, shall have access to and may demand the production of any books or papers of, and may administer oaths and affirmations to and examine, the franchisor, subfranchisor or any agents or any other person, in respect of any matter relevant to the examination. If any such franchisor, subfranchisor, agent, or person fails to cooperate, or obstructs or refuses to permit the making of an examination, such conduct shall be proper ground for the issuance of an order suspending the registration statement.

(f) Any notice required under this section shall be sent to or served on the franchisor or his authorized agent.

(g) A franchise offering shall be deemed duly registered for a period of one year from the effective date of the registration. The registration may be renewed for additional periods of one year each. The registration renewal statement shall be in the form and content prescribed by the Commission and shall be accompanied by an amended offering prospectus. Each such renewal registration statement shall be accompanied by the fee prescribed by the Commission.

INFORMATION REQUIRED IN PROSPECTUS

Sec. 9. (a) A prospectus relating to franchises shall contain such of the information contained in the registration state-

ment and any amendments thereto as the Commission may deem necessary. A prospectus shall also contain such other information as the Commission may by rules and regulations require as being necessary or appropriate in the public interest or for the protection of purchasers.

(b) The prospectus shall not be used for any promotional purposes before the registration statement becomes effective, and then only if it is used in its entirety. No person may advertise or represent that the Commission approves or recommends the sale of any franchise. No portion of the prospectus shall be underscored, italicized, or printed in larger or bolder type than the balance of the statement unless the Commission requires or permits it.

CIVIL LIABILITIES

SEC. 10. (a) In case any part of a registration statement, when such part becomes effective, contains an untrue statement of a material fact or omits to state a material fact required to be stated therein, any person acquiring a franchise covered by such registration statement from the franchisor, subfranchisor, or agent thereof, during such period as the statement remains uncorrected (unless it is proved that at the time of such acquisition he knew of such untruth or omission), may sue at law or in equity, in any court of competent jurisdiction, the franchisor, subfranchisor, or agent.

(b) Any franchisor, subfranchisor, or agent who sells a franchise—

(1) in violation of section 5, or

(2) by means of a prospectus containing an untrue statement of a material fact or omitting to state a material fact required to be stated therein,

may be sued by the purchaser of the franchise.

(c) The suit authorized under subsection (a) or (b) of this section may be brought to recover damages up to three times the cost of the franchise, including reasonable attorney's fees and reasonable court costs.

(d) Any person who becomes liable to make payment under this section may recover contribution as in cases of contract from any person who, if sued separately, would have been liable to make the same payment.

JURISDICTION OF STATE AUTHORITIES

SEC. 11. Nothing in this Act shall affect the jurisdiction of any State or territory of the United States, or the District of Columbia, over any franchise or any person.

REVIEW OF ORDERS

SEC. 12. (a) Any person aggrieved by an order of the Commission may obtain a review of such order in the court of appeals of the United States, for any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the entry of such order, a written petition praying that the order of the Commission be modified or be set aside in whole or in part. A copy of such petition shall forthwith be transmitted by the clerk of the court to the Commission, and thereupon the Commission shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. No objection to the order of the Commission shall be considered by the court unless such objection shall have been urged before the Commission. The finding of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material, and that there were reasonable grounds for failure to adduce such evidence in the hearing before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of the original order. The jurisdiction of the court shall be exclusive and its judgment and decree, affirming, modifying, or setting aside, in whole or in part, any order of the Commission shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code.

(b) The commencement of proceedings under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of the order of the Commission.

LIMITATION OF ACTIONS

SEC. 13. No action shall be maintained to enforce any liability created under section 10 unless brought within two years after the discovery of the untrue statement or the omission, or after such discovery should have been made by the exercise of reasonable diligence, or if the action is to enforce a liability created under section 10(b)(1), unless brought within two years after the violation upon which it is based occurred. In no event shall any such action be brought by a franchisee more than three years after the sale of the franchise to the franchisee.

CONTRARY STIPULATIONS VOID

SEC. 14. Any condition, stipulation, or provision binding any person acquiring any franchise to waive compliance with any provision of this Act or of the rules and regulations prescribed thereunder shall be void.

ADDITIONAL REMEDIES

SEC. 15. The rights and remedies provided by this Act shall be in addition to any and all other rights and remedies that may exist at law or in equity.

POWERS OF THE COMMISSION

SEC. 16. (a) The Commission shall have authority from time to time to make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of this Act, including rules and regulations governing registration statements and prospectuses, and defining accounting, technical and trade terms used in this Act. Among other things, the Commission shall have authority, for the purposes of this Act, to prescribe the form or forms in which required information shall be set forth, the items or details to be shown in the balance sheet and earnings statement, and the methods to be followed in the preparation of accounts, in the determination of depreciation and depletion, in the appraisal or valuation of assets and liabilities, in the differentiation of investment and operating income, and in the preparation, where the Commission deems it necessary or desirable, of consolidated balance sheets or income accounts of any person directly or indirectly controlled by the franchisor. No provision of this Act imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule or regulation of the Commission, notwithstanding that such rule or regulation may, after such act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

(b) Whenever it shall appear to the Commission that any person is engaged, or is about to engage, in any acts or practices which constitute or will constitute a violation of this Act, or any rule or regulation prescribed thereunder, it may in its discretion, bring an action in any district court of the United States, United States court of any territory, or the United States District Court for the District of Columbia to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. The Commission may transmit such evidence as may be available concerning such acts or practices to the Attorney General who may, in his discretion, institute the necessary criminal proceedings under this Act.

(c) Whenever it shall appear to the Commission, either upon complaint or otherwise, that the provisions of this Act, or any rules or regulations prescribed thereunder, have been or are about to be violated, it may, in its discretion, either require or permit such person to file with it a statement in writing, under oath, or otherwise, as to all the facts and circumstances concerning the subject matter which it believes to be in the public interest to investigate, and may investigate such facts.

(d) For the purpose of any investigation, which in the opinion of the Commission is necessary and proper for the enforcement of this Act, any member of the Commission, or any officer or officers designated by it, are empowered to administer oaths and affirmations, subpoena witnesses, take evidence and require the production of any books, papers, or other documents which the Commission deems relevant or material to the inquiry. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States or any territory at any designated place of hearing.

(e) In case of contumacy or refusal to obey a subpoena issued to any person, the Commission may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda and other records and documents. Such court may issue an order requiring such person to appear before the Commission, or any officer designated by it, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof.

(f) No person shall be excused from attending and testifying or from producing books, papers, contracts, agreements, or other documents before the Commission, or in obedience to the subpoena of the Commission or any member thereof or any officer designated by it, or in any cause or proceeding instituted by the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of him, may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

HEARINGS

SEC. 17. All hearings shall be made public and may be held before the Commission or an officer or officers of the Commission designated by it, and appropriate records thereof shall be kept.

JURISDICTION OF OFFENSES AND SUITS

SEC. 18. The district courts of the United States, the United States courts of any territory, and the United States District Court for the District of Columbia shall have jurisdiction of offenses and violations under this Act and under the rules and regulations prescribed pursuant thereto, and concurrent

with State courts, of all suits in equity and actions at law brought to enforce any liability or duty created by this Act. Any such suit or action may be brought in the district wherein the defendant is found or is an inhabitant or transacts business, or in the district where the offer or sale took place, if the defendant participated therein, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 1254 and 1291 of title 28 of the United States Code. No case arising under this Act and brought in any State court of competent jurisdiction shall be removed to any court of the United States. No costs shall be assessed for or against the Commission in any proceeding under this Act brought by or against it in any court.

UNLAWFUL REPRESENTATIONS

SEC. 19. The fact that a registration statement with respect to any franchise has been filed or is in effect shall not be deemed a finding by the Commission that the registration statement is true and accurate on its face, or be held to mean that the Commission has in any way passed upon the merits of or given approval to such franchise. It shall be unlawful to make, or cause to be made, to any prospective purchaser any representation contrary to the foregoing.

PENALTIES FOR VIOLATIONS

SEC. 20. Any person who willfully violates any provision of this Act, or any rule or regulation promulgated thereunder, or any person who willfully, in a registration statement filed under this Act, makes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be filed not more than $5,000 or imprisoned not more than five years, or both.

JURISDICTION OF OTHER GOVERNMENT AGENCIES

SEC. 21. Nothing in this Act shall relieve any person from submitting to the respective supervisory units of the Government of the United States information, reports, or other documents which may be required by law. The filing of a registration statement hereunder shall not be deemed to confer any immunity from liability for violation of any other laws.

SUBSTITUTE SERVICE OF PROCESS

SEC. 22. Each franchisor or subfranchisor which is registered or applying for registration under this Act shall furnish to the Commission, in a form prescribed by or acceptable to it, a written irrevocable consent and power of attorney—

(1) designating the Commission as an agent upon which may be served any process, pleadings, or other papers in any civil suit or action, brought in any appropriate court in any place subject to the jurisdiction of the United States, which (A) arises out of any activity in any place subject to the jurisdiction of the United States in connection with a course of business, and (B) is founded directly or indirectly upon the provisions of this Act; and

(2) stipulating and agreeing that any such civil suit or action may be commenced upon the service of process upon the Commission, and that such service of any process, pleadings, or other papers upon the Commission shall be taken and held in all courts to be as valid and binding as if due personal service thereof had been made.

SCHEDULE A

(1) The name of the franchisor, the name under which he intends or is doing business, and the name of any parent or affiliated company that will engage in transactions with franchisees.

(2) The name of the State or other sovereign power under which the franchisor is organized and the location of the franchisor's principal place of business.

(3) The names and addresses of the directors or persons performing similar functions and the chief executive, financial, accounting and principal executive officers, chosen or to be chosen, if the franchisor is a corporation, association or other entity; of all partners, if the franchisor is a partnership, and of the franchisor if the franchisor is an individual.

(4) A statement disclosing whether any person identified in the registration statement

(a) has been convicted of a felony, or pleaded nolo contendere to a felony, or been held liable in a civil action by final judgment, if such felony or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property; or

(b) is subject to any currently effective order or ruling of any State or federal agency.

Such statement shall indicate the court, date of conviction or judgment, or any penalty imposed or damages assessed.

(5) The general character of the business actually transacted by the franchisor for the past five years, and the business to be transacted by the franchisor.

(6) Recent financial statements of the franchisor. The Commission may by rule or regulation prescribe the form and content of financial statements required under this Act, the circumstances under which consolidated financial statements may be filed, and the circumstances under which financial statements shall be certified by independent certified public accountants or public accountants.

(7) A copy of the franchise agreement proposed to be used.

(8) A statement of the franchise fee charged, the proposed application of the proceeds of such fee by the franchisor, and the formula by which the amount of the fee is determined if the fee is not the same in all cases.

(9) A statement describing any payments or fees other than franchise fees that the franchisee or subfranchisor is required to pay to the franchisor, including royalties and payments or fees which the franchisor collects in whole or in part on behalf of third parties.

(10) A statement of the conditions under which the franchise agreement may be terminated or renewal refused, or repurchased at the option of the franchisor.

(11) A statement as to whether, by the terms of the franchise agreement or by other device or practice, the franchisee or subfranchisor is required to purchase from the franchisor or his designee services, supplies, products, fixtures, or other goods relating to the establishment or operation of the franchise business, together with a description thereof.

(12) A statement as to whether, by the terms of the franchise agreement or other device or practice, the franchisee is limited in the goods or services offered by him to his customers.

(13) A statement of the terms and conditions of any financial arrangements when offered directly or indirectly by the franchisor or his agent.

(14) A statement of any past or present practice or of any intent of the franchisor to sell, assign, or discount to a third party any note, contract, or other obligation of the franchisee in whole or in part.

(15) A statement of available earnings of past and present franchises.

(16) A statement of the number of franchises presently operating and proposed to be sold.

(17) A statement as to whether franchisees and subfranchisors receive an exclusive area or territory.

(18) A statement setting forth such other information as the Commission may require.

(19) A statement setting forth such information as the franchisor may desire to present.

(20) A statement of any compensation or other benefit given or promised to a public figure arising, in whole or in part, from the use of the public figure in the name or symbol of the franchise.

(21) When the person filing the registration statement is a subfranchisor, the statement shall include the same information concerning the subfranchisor as is required from the franchisor pursuant to this schedule.

Mr. BENNETT. Mr. President, today I am joining with the Senator from New Jersey (Mr. WILLIAMS) as a cosponsor of the Franchise Full Disclosure Act. By my cosponsorship, I am not supporting all of the provisions of the bill but I am supporting the basic concept of the bill which is to provide disclosure of information about a franchise to a prospective franchisee. If the prospective buyer has sufficient factual information about a franchise, he can then make a rational decision based on the facts disclosed whether or not to enter a new field of business. In the absence of such information, he may very well make a decision based on inflated claims and irresponsible representations. Much of the information required under this proposal if already required by the Securities and Exchange Commission when a franchise company files for a stock offering. I see no reason why this same information should not be disclosed to the prospective franchisee and thus help those desiring to own their own business make better decisions.

Franchising itself as a system of marketing has made great strides in recent years. Figures show that there are presently over 1,000 firms offering franchises, and recent hearings before Small Business Subcommittee on Rural and Economic Development of the Select Committee on Small Business revealed that franchising accounts for more than $90 billion in annual sales of goods and services. The franchising system is vital to our economy—especially to the small businessman. In fact, Donald Brewer, Deputy Administrator of the Small Business Administration, has said:

> Franchising fosters the entrepreneurial spirit of America. For members of minority groups and for those in rural America who now are deprived of the opportunity to own their own business, franchising may well be their shining opportunity and, possibly, their port of last hope. We, therefore, believe the Federal Government should do everything appropriate to assist those Americans who have the necessary spirit and enterprise to operate a successful franchise establishment.

I believe the time has come for us to seriously consider appropriate legislation to assure that full disclosure of material facts is provided to prospective franchisees and hope that as a result of further consideration, we may work out any problems which may be contained in this proposal.

S. 3846—INTRODUCTION OF A BILL RELATING TO A NEW RECREATIONAL CENTER FOR MILWAUKEE COUNTY

Mr. PROXMIRE. Mr. President, on behalf of Senator NELSON and myself, I am introducing legislation today that will

enable Milwaukee County to arrange for construction of a new recreational Pladium. This legislation will permit the county to lease property for this purpose to a nonprofit corporation without violating the provisions governing the original conveyance from the Federal Government. The land is presently owned by the county.

Since this bill explicitly restricts the lease of this land to recreational or civic use, and since Milwaukee County paid 50 percent of fair market value at the time it purchased the property, this transaction will be perfectly consistent with the Morse formula which protects Federal property rights.

Mr. President, the Pladium will be an outstanding asset to Milwaukee County. In addition to providing facilities for the Milwaukee Bucks, it will be a year-round site for hockey, boxing, indoor track, concerts and stage shows, and other activities. By utilizing the most modern assistance and advice on every aspect of development—from acoustics to television camera placement to soil testing—the Milwaukee County Pladium will provide the ultimate in recreational facilities.

Construction of the Pladium will mean a tremendous increase in the county's entertainment capabilities, and will provide a healthy supplement to downtown Milwaukee's convention facilities. And the presence of a beautiful and exciting entertainment and sports center will greatly enhance the pride and community spirit of the entire Milwaukee area. Its close proximity to the Milwaukee County Stadium means that 11,000 parking spaces already owned by the county will be available to Pladium spectators. And its location near a modern expressway in the geographical and population center of the county insures that the Pladium will be easily accessible to all.

I ask unanimous consent that the bill be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. EAGLETON). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3846) to authorize certain uses to be made with respect to lands previously conveyed to Milwaukee County, Wis., by the Administrator of Veterans' Affairs, introduced by Mr. PROXMIRE (for himself and Mr. NELSON), was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3846

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any provision of the Act entitled "An Act to authorize the Administrator of Veterans' Affairs to convey certain lands and to lease certain other lands to Milwaukee County, Wisconsin", approved September 1, 1949 (63 Stat. 683), or the Act entitled "An Act authorizing the Administrator of Veterans' Affairs to convey certain property to Milwaukee County, Wisconsin", approved August 27, 1954 (68 Stat. 866)—

(1) Milwaukee County, Wisconsin, is authorized to lease all or any part of the land conveyed to it pursuant to such Acts subject to the following conditions—

(A) such land or part thereof may be leased by Milwaukee County only to a nonprofit corporation, which corporation shall construct and equip on such land structures, facilities, and other permanent improvements useful for either public recreational purposes, general civic purposes, or both such purposes; and

(B) after completion of the improvements specified in subparagraph (A) above, such lands or parts thereof shall be leased back to Milwaukee County.

(2) Neither the lease of lands pursuant to paragraph (1) nor the use therefor for public recreational purposes or general civic purposes, shall be deemed to be grounds for the reversion to the United States of the title to the lands conveyed to Milwaukee County pursuant to such Acts.

SEC. 2. The Administrator of Veterans' Affairs shall issue such written instruments as may be necessary to bring the conveyances made to Milwaukee County, Wisconsin, on January 11, 1950, and April 19, 1955, pursuant to the Acts referred to in the first section of this Act, into conformity with such first section.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, May 15, 1970, he presented to the President of the United States the following enrolled bills:

S. 856. An act to provide for Federal Government recognition of and participation in international expositions proposed to be held in the United States, and for other purposes; and

S. 2999. An act to authorize, in the District of Columbia, the gift of all or part of a human body after death for specified purposes.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT—AMENDMENTS

AMENDMENT NO. 630

Mr. HOLLINGS submitted an amendment, intended to be proposed by him, to the bill (H.R. 15628) to amend the Foreign Military Sales Act, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 631

Mr. WILLIAMS of Delaware submitted an amendment, intended to be proposed by him, to House bill 15628, supra, which was ordered to lie on the table and to be printed.

ADDITIONAL STATEMENTS OF SENATORS

INVASION OF OFFICE OF SECRETARY FINCH

Mr. TALMADGE. Mr. President, on Wednesday of this week the office of Secretary of Health, Education, and Welfare Robert H. Finch, was subjected to an invasion.

The invaders were not representatives of a foreign government; they were not militant college students. Mr. Finch's office was invaded and occupied by a group which called themselves the National Welfare Rights Organization.

This group of lawbreakers came to Secretary Finch to demand their "rights"—a $5,500 per year income with no strings attached. Chanting their slogan of "$5,500 or fight," these professional welfare recipients swooped down upon Secretary Finch and subjected him to all manner of insults—calling him a pig.

The Secretary was a model of courtesy and forbearance. He calmly bore the indignity of this intrusion for about an hour before leaving his office.

Finally, after 21 demonstrators had occupied the Secretary's office for more than 8 hours, the demonstrators were arrested on disorderly conduct charges.

About 100 welfare activists again invaded the Department of Health, Education, and Welfare yesterday. This group indicated its intention of causing repeated disruptions in Washington and all over the country. The group has made clear its intent to bully Congress into voting a $5,500 welfare handout.

Mr. President, these disgusting exhibitions should provide a lesson for us all.

They point out the fact that the administration's guaranteed income plan can cause the Congress and the administration nothing but trouble. Under the administration's bill the guaranteed annual income level is set at $1,600 per year.

As I have previously pointed out on the floor of the Senate, the important aspect of the administration's program is not the income level, but the fact that the bill, if enacted, would establish by act of Congress the principle of a guaranteed annual income. Once this principle is established, Congress and the administration will be subjected to unbearable pressure from such groups as the National Welfare Rights Organization.

The Senators who support a guaranteed annual income of $1,600 or a minimum of $3,600 should beware. Although they are the "heroes" of today, they will be the "pigs" of tomorrow if they do not support the impossible demands of groups such as the NWRO.

Already, the administration estimates that the $1,600 minimum benefit level will entail an additional Federal expenditure of $4.4 billion annually. As I pointed out in the Finance Committee hearings, the $4.4 billion figure is far too low to be considered realistic. If the administration's plan were changed to a $3,600 minimum benefit level, we would have to spend $20.7 billion additional dollars in order to underwrite these benefits.

Under this benefit level at least 76 million Americans would qualify for welfare.

Under a $5,500 benefit level, well over half the country would receive welfare.

Mr. President, already our Government is spending $30 billion annually on Federal aid to the poor. I believe in doing everything reasonable to help the poor of this Nation to help themselves. I believe in providing assistance to those who are unable to help themselves.

However, I am unalterably opposed to any plan which insures a guaranteed annual income for everyone, whether he works or not.

I will not be a party to passing legislation which will subject this Congress and subsequent Congresses and every administration to intimidation by a mob which will always demand more money.

Mr. President, I ask unanimous consent that a news article from the Evening Star of May 14 be printed in the RECORD.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

SIT-IN STAGED AT FINCH OFFICE

(By David Holmberg)

Demanding that Health, Education, and Welfare Secretary Robert Finch make a "commitment" against U.S. policy in Southeast Asia and for higher welfare benefits, 21 demonstrators occupied his office for more than eight hours yesterday before being arrested on disorderly conduct charges.

The demonstrators, most of them members of the National Welfare Rights Organization and led by its director, Dr. George Wiley, filed peacefully out of Finch's 5th floor office at 7:50 p.m., shouting their slogan "$5500 or Fight." A few college students who had joined the demonstration were among those arrested.

The slogan referred to the demonstrators' demand for a guaranteed annual income of $5,500 for a family of four.

They also asked for cuts in military spending, particularly in Southeast Asia, an end of foreign subsidies, closing of tax loopholes, a curtailing of "high expense accounts" for government office holders, and an increase in corporation taxes.

Finch, in a brief press conference following a mid-afternoon meeting with a representative of the NWRO, said many of the demonstrators' demands were not within the jurisdiction of his department. He noted that the administration has called for a $1,600 minimum income, which would be supplemented with additional payments by individual states.

The secretary, who labeled the takeover of his office "totally inappropriate" and "counter productive," said the demonstrators appeared to "Think that all things can be solved at the federal level, and this is not realistic."

Undersecretary John G. Veneman, who sat in on the session with Finch, then reported back to the demonstrators, who acknowledged that some of their demands were out of the range of the department but emphasized that their main concern was a commitment from Finch against the war and for the $5,500 plan.

"All we get from Finch," Wiley told Veneman, "is a lot of soft soap, and the appearance of liberalism . . . If Agnew can speak up, why can't he?"

With the demonstrators shouting their support, Wiley then repeated an earlier statement that the "occupation" would not end until Finch made a commitment on the war and on the guaranteed annual income plan.

OFFICIALS READ RULES

Veneman then withdrew, but returned two hours later along with General Service Administration officials and U.S. marshals to inform the demonstrators they would have to leave when the building was closed for the day a half-hour later. Finch had noted earlier that GSA regulations required the building be cleared at the end of the working day.

The officials, reading from GSA regulations, ignored the demonstrators' shouts of, "get Finch in here."

After dismissing the press from the secretary's office, the officials then engaged in a lengthy negotiation with the demonstrators over the terms of their arrest. They were finally held on a violation of the city code, which carries a penalty of $50 fine or 30 days in jail. They could have been held under a federal statute with a maximum penalty of a $100 fine or 6 months in jail.

BRIEF SCUFFLE

The demonstrators were taken to a waiting paddy wagon and greeted with shouts of "power to the people" from about 50 other protestors who had held a vigil in support of those in Finch's office throughout the day. Police arrested one youth following a brief scuffle after those arrested had been taken away.

The occupation of the secretary's office began at 11:30 a.m., when about 15 of the protestors burst in while Finch was being interviewed by two reporters.

Finch, according to an HEW spokesman, reacted "calmly" to the intrusion.

Wiley seated himself in the secretary's large leather chair and the demonstrators then held an hour's discussion with Finch, emphasizing their demands relating to the war and to welfare benefits.

POLICY DIRECTIVES

Finch left his office for an appointment at about 12:30 p.m. and the demonstrators then spent the next seven hours shouting out the window to their supporters outside, confronting HEW officials who wandered in, lounging on the office's leather chairs and plush blue carpet, and watching the secretary's color television set.

Mrs. Beulah Sanders, of New York, a vice chairman of the NWRO, occupied the secretary's leather chair most of the day, and was labeled "Secretary Sanders" by Wiley, who said that "policy directives" would be issued by the NWRO during the occupation of the office.

Mrs. Sanders conferred with her fellow demonstrators on strategy, read documents on the secretary's desk, and ate the peanut butter and jelly sandwiches which NWRO members had supplied for the occasion.

The NWRO leaders continued to maintain throughout the afternoon that they would occupy the office indefinitely. One demonstrator said mattresses were available and, referring to the food which was placed on a mahogany table next to the secretary's ornate desk, said: "For once NWRO came prepared."

DAILY OKLAHOMAN'S ARTICLE DEROGATORY OF SENATOR SMITH OF MAINE

Mrs. SMITH of Maine. Mr. President, recently the Daily Oklahoman, morning newspaper of Oklahoma City, Okla., published a derogatory article by its Washington correspondent, Allan Cromley, against me. The article was seriously erroneous as to significant facts and seriously fallacious in its interpretative speculation.

That it was derogatory is not unusual—for I have had my share of press attacks. That, in its derogation of me, it was defensive of a hometown boy is somewhat understandable.

But misrepresentation of such a specific fact as to the time of day is inexcusable—premising derogatory speculation on such an obvious misrepresentation of time further compounds the journalistic irresponsibility—and failure to publish a refutation of the misrepresentation reveals calloused journalistic rejection of fair play.

Shortly after publication of Mr. Cromley's derogatory, erroneous, and fallacious article, my assistant wrote E. K. Gaylord, editor of the Daily Oklahoman, specifying the error and fallacy. Most newspapers grant space opportunity for rebuttal, but the Daily Oklahoman did not in this case. Wednesday the Washington office of the newspaper stated that the letter of my assistant had not been published.

Since the readers of the Daily Oklahoman have not been given the truth in this matter, I ask unanimous consent that the letter from my assistant to the editor of the Oklahoman be printed in the RECORD. It is possible that the truth in this manner may get through to some residents of Oklahoma City who read the CONGRESSIONAL RECORD as well as to the Members of the Oklahoma congressional delegation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

APRIL 24, 1970.

E. K. GAYLORD,
Editor, the Daily Oklahoman,
Oklahoma City, Okla.

DEAR MR. GAYLORD: One of your readers sent Senator Smith a clipping from your editorial page on which appeared Mr. Cromley's piece on Senator Smith.

There are certain inaccuracies in his account but I will confine myself only to the last three paragraphs of his piece.

He states that Senator Smith found out about the Harlow calls "at about 11:20 a.m." and then in the next two paragraphs he speculates that, on the basis of that timing, and on the basis of anger at the Harlow calls, she made her decision after that time because I said she made her decision "about lunch time."

Mr. Cromley is in error as to the time and, therefore, in error as to his speculation based upon that erroneous time.

The truth is that Kenneth E. BeLieu states that he received the erroneous report at 11:20 a.m. while he was talking to Mr. Harlow. I so stated this to Mr. Cromley and this is how he got the 11:20 a.m. time.

The further truth is that Senator Smith did not learn of the calls of Mr. Harlow until 12:40 p.m. (one hour and twenty minutes later) when Senator Brooke so informed Senator Smith. Thus, the fallacy of Mr. Cromley's speculation is illustrated.

For your further information, when Mr. BeLieu called on Senator Smith the day after the vote to express his regrets about the incident, he showed both Senator Smith and me his pre-vote tally prediction sheet (drawn up before his 11:20 a.m. talk with Mr. Harlow) on which he had predicted that Senator Smith would vote *against* Carswell.

If you have the slightest doubt about the accuracy of what I have stated in this letter, I invite you to ask Mr. BeLieu and Senator Brooke if my statements about them are inaccurate. For their information, I am sending them a copy of this letter.

Sincerely,

WILLIAM C. LEWIS, JR.,
Executive Assistant to Senator Smith.

STEWARDESS SERVICE BY SCHEDULED AIRLINES IS 40 YEARS OLD

Mr. RANDOLPH. Mr. President, today, May 15, marks the 40th anniversary of the introduction of stewardess service by U.S. scheduled airlines. Four decades ago eight stewardesses took to the air in eight 20-passenger trimotor aircraft—the Boeing 80A—operated by Boeing Air Transport, a predecessor company of today's United Airlines. Now approximately 34,000 stewardesses fly for U.S. airlines in domestic and international service in planes carrying up to 360 passengers, with as many as 14 stewardesses covering their needs in a single flight.

Soon the other airlines then in existence—most of which were parent companies of those we know today—saw the value of the stewardess in creating public confidence in air transportation and began adding them to their flights. Today, of course, the stewardess is an indispensable feature of the passenger-service pattern of the entire airline industry.

I believe the ability to create "public

confidence" has been the outstanding quality of the airline stewardess. One of the reasons for this feeling of confidence is that the early stewardesses had to be registered nurses. And they had to be registered nurses not only because such training and experience were considered advantageous in the event of air sickness or other illness in flight, but, as one of the airline officials of the day said:

We want institutionally trained persons accustomed to discipline, since discipline is paramount at all times.

Today, that philosophy is still paramount. The airlines spend many millions of dollars a year training their stewardesses in such disciplines as the theory of flight, emergency procedures, first aid, and psychology. To familiarize them with their life aloft, stewardess trainees become oriented in exact models of the galleys and cabin sections in which they will fly.

From this tradition of training and discipline has emerged yet another quality that characterizes the girls who make air travel so attractive. That quality is "courage."

In the context of the Nation's stewardesses, I think that the late Ernest Hemingway's definition of courage is most applicable:

Grace under pressure.

It is in recognition of this spirit that I call attention to the U.S. scheduled airline industry in saluting airline stewardesses on their 40th anniversary of service to the public.

RIGHTS OF WAR PRISONERS VIOLATED

Mr. BELLMON. Mr. President, for some time, now, I have heard a lot about the rights of various people and groups. There has been a lot of talk in the Senate about the rights of Congress and the rights of the President. Much has been written and said in the media about the rights of student dissenters and the rights of students who want to study.

But, Mr. President, I hear almost nothing about the rights of a small group of Americans—the 1,500 men who are being held prisoners by the North Vietnamese.

These men have served their country well in battle. They serve now as prisoners.

Under international agreements to which all civilized nations subscribe, prisoners of war are to be treated in such fashion as to preserve at least their minimum rights. These include medical care, an adequate diet, notification of their families—through their Government—and communication between prisoners and families.

The North Vietnamese have violated these rights as a matter of consistent policy for over 5 years. There are Americans lost in action back in 1965 who, we believe, are still being held by the North Vietnamese. I say we believe they are being held because we do not actually know whether they are or not. The Communists have never notified this Government, nor any international agency such as the Red Cross, nor have they permitted communication between these men and their families.

The international code governing treatment of war prisoners is at best a bare-bones system of protection. It is designed only to protect these otherwise helpless men, to prevent them from being used as political hostages, and to insure their safety.

Where possible, the Communists have violated every aspect of this code. They have used prisoners to make propaganda broadcasts. They have suggested to American women concerned over the fate of their husbands that it might be possible to get the information they so desperately want by turning against their own Government.

Mr. President, in discussing human rights in this Chamber, let me suggest strongly that the rights of this particular segment of humanity not be overlooked.

These men have served America. Americans cannot desert them.

RETROACTIVE DENIAL OF BENEFITS FOR NURSING HOME PATIENTS

Mr. WILLIAMS of New Jersey. Mr. President, today the medicare extended care program is in serious danger of complete abandonment by nursing homes. More than 500 nursing homes have already withdrawn from the program.

A major reason for this critical problem is the retroactive denial of benefits to elderly persons by fiscal intermediaries. In many instances, this occurs several weeks after the patient enters the extended care facility after proper certification by his attending physician.

During the past few weeks, I have received dozens of complaints from patients, physicians, and nursing homes concerning the hardships that this practice can produce.

On May 7, the Subcommittee on Long-Term Care, of the Committee on Aging, under the chairmanship of the Senator from Utah (Mr. Moss), held a hearing on this problem and related issues.

A statement by Dr. Frederick Offenkrantz, medical director of the Health and Extended Care Center in Crawford, N.J., aptly described the severity of this matter and the dilemma for the parties affected.

So that Senators can have further information about this urgent problem, I ask unanimous consent that the written testimony by Dr. Offenkrantz and my statement at the hearing be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY FREDERICK W. OFFENKRANTZ, MEDICAL DIRECTOR

Mr. Chairman, Members of the Committee:

My name is Frederick M. Offenkrantz. I am a physician, the Medical Director of the Cranford Health and Extended Care Center in Cranford, New Jersey. This is a Facility operated by the non-profit New Jersey Rehabilitation Care Foundation as one of a number of projects designed to give the most advanced long-term care possible in areas of New Jersey, extending from Princeton to the inner-city ghetto of Newark. The foundation's basic purpose is to serve people who might not otherwise be able to afford or obtain such long-term care.

As I am sure the committee knows, Extended Care is post acute general hospital institutional care, designed to cut down on the days required in an acute hospital. The E.C.F. patient needs both medical and skilled nursing care beyond that of simple custodial care.

My purpose in coming here is to, on behalf of our patients, protest the number and method of Medicare cutoffs at our facility through our fiscal intermediary, New Jersey Blue Cross. Within the past year there have been over 50 such cut-offs, and only recently we were notified of 18 such terminations in one day. The tempo appears to be increasing, apparently by design, and I am here to protest these actions on the following bases:

1. Every cut-off was made despite referrals from general hospitals whose utilization review procedures embody referrals to E.C.F.'s. Further, in every instance a referring physician from a general hospital certified to the need for E.C.F. care. These patients are involuntarily sent to us from their hospitals in accordance with the Medicare rules.

2. Cut-offs were made with total disregard to the certification by the attending physician at the Cranford facility as to need for E.C.F. care, plus a pre-admission review by the Administrator, the very capable and experienced Director of Nursing, and by the Medical Director.

3. The Utilization Review Committee of this non-profit community facility is comprised of, among others, a physiatrist, the medical director and a practitioner of many years standing not admitting patients to this facility. In each instance of retroactive cut-offs, this committee had certified to the necessity of additional E.C.F. care, within the guide lines from the Social Security Administration as best we can interpret them, plus our mutual judgment.

4. In many cases, no portion of the patient's chart, except for an initial check list was requested or reviewed by the individual making these cut-offs, which of course, should be medical judgments.

5. In every instance the cut-off was made retroactive up to as much as seven weeks from the date of our notification, sometimes this was to the date of the patient's admission to this facility. In several instances the date of cut-off was actually after the death of the patient.

6. In many instances the attending physician has flatly refused to order discharge of patients following these cut-offs. Because of the severity of the patients' illnesses, these physicians felt strongly that discharge would constitute malpractice. I must call your attention to the fact that if this constitutes malpractice on the part of the attending physician, it constitutes malpractice on the part of the intermediary in so ordering, contrary to our combined medical advice. Since many of these victims came from poor areas, many being inner-city ghetto residents from Newark and Elizabeth, New Jersey, they cannot afford the charges; and as a non-profit facility, are deeply in debt because of those denials which are made long after we, in all good faith and honesty, have rendered the service.

7. Despite repeated efforts, no appeal to reason, no appeal for review and no appeal to professional judgment or humanitarian need has been entertained by the New Jersey Blue Cross Plan or the Social Security Administration.

8. In no instance during my almost two years of tenure as the Medical Director, has a physician from the intemediary or the U.S.A. contacted me regarding a cut-off. This, in my opinion, constitutes a serious defect in the entire program. It permits unnamed persons to effect virtually a life and death decision on these patients, whose require-

ment for additional care is certified to by referring physicians, treating physicians, consultants, and utilization review physicians at this extended care facility.

May I beg the indulgence of this committee in reviewing my background, to explain my qualifications for appearing before you with this appeal. I am by training a pathologist, graduated from Bucknell University and the Columbia College of Physicians and Surgeons. In addition, I hold a Master's Degree in Public Health Legislation from Columbia University.

My attention to the problems of pathology which are inherently those of diagnosis and the course of disease; or, in the aged, the course of multiple diseases; has given me interest in several associated activities. The one in which I appear before you is that of the admission, treatment, supervision and discharge of the geriatric patient under Medicare. In the opinion of the Foundation leadership, which comprises trained educators and administrators in the Health Field, a pathologist so interested constitutes a proper and valuable medical person to objectively evaluate the sick and afflicted geriatric patients being admitted for E.C.F. care. It was felt that having someone trained exclusively in the evaluation of illness rather than subjectively in the treatment of patients was a step towards fully scientific, objective procedure. This was intended to assist the treating physician along the path of every scientific requirement on behalf of the Medicare statutes. We attempted to avoid, by such guidance, the possibility of subjective over-involvement of a treating physician with his patient.

Appearing before you as I do now, I find that my more than 20 years of relationship with scientists within and outside of government gives me an interesting basis for comparison with medical supervision for E.C.F.'s under Medicare. As I have indicated to this committee, there is a remarkable lack of scientific approach, medical control, and generally accepted medical attitude on the part of our intermediary and/or S.S.A., towards the admission, care and discharge of patients in E.C.F.'s. I will be pleased to discuss this to whatever extent this interests the commitee. However, I can only conclude that judgments on the part of the government and its agent are being made by incompetent, unskilled, disinterested, uninformed or misguided personnel. Further, the custom in most large organizations, either government or private, is to open avenues of appeal and discussion to those who might question, on a scientific basis, the original medical phenomena described. Such avenues appear closed in total administration of this program. If they are open, we have been unable to find them.

If I may digress with relevancy for a moment I would also point out my service of over 6 years as a Medical Officer in the Army during World War II. More than half of this was spent in the southwest Pacific area of command. For a great part of this time, during the early 1940's, I was the sole laboratorian and public health officer in the more forward areas of the U.S. Army effort. On two occasions the unit which I commanded was responsible for very unpalatable decisions involving our Australian hosts. In the first, it was my duty to label the entire water supply of Townesville, Australia as contaminated and unfit for our troops use. In the second, the largest single epidemic of botulism poisoning was discovered and diagnosed by my command through autopsy, following the death of several American servicemen from contaminated food. In each instance, I was the recipient of questions and communiques from the ranking medical officer in that area, one of which resulted in a meeting with General MacArthur on the water problem. Even here, being subject to the explicit direction of higher command, there was discussion and suggestion with regard to scientific medical problems but at no time was I issued a directive as to mode of thinking or judgment to be stated.

I am at a loss, therefore, having functioned for many years under the authoritarian arrangements of the military and the rather strongly-held opinions of other agencies such as the F.D.A. to understand the mechanics of this governmental program which appears to operate only by fiat. Nowhere in government or public services does the question of human life and well-being become a matter of large numbers and special concern as it does with the Medicare admission to hosiptals and E.C.F.'s. The citizens affected here are not young people with tremendous powers of recovery. They are geriatric patients in whom errors of judgement can very well be fatal. Obviously, the Congress recognized this by giving the final authority for hospital and E.C.F. stay into the hands of the medical profession, with appropriate and fully acceptable safeguards involving systems of review and certification. The question of a patient's stay in our E.C.F. comprises the considered judgement of as many as ten different unrelated, and, often, unknown to each other, physicians. How can all of this be discredited at the whim of a clerk or young nurse functioning in Baltimore or Newark for the thousands of E.C.F. patients in New Jersey and elsewhere?

Other government agencies, up to, and including the staff of Douglas MacArthur have always seen fit to obtain the judgment of medical officers with regard to those problems in their jurisdiction and to accept that judgment if the physician, upon discussion, could sustain his beliefs. Why then do the administrators of the E.C.F. component in Medicare with life maintenance at stake, afford no such discussion to any of the physicians involved and, to my knowledge, refuse reversal upon appeal in almost every instance. Appeals of all types are handled in an unprofessional and frequently insulting manner in our area.

There is inherent in this problem, gentlemen, a further contradiction which may make this entire situation indeed the farce it is rapidly becoming. If S.S.A. and the fiscal intermediary can successfully cut-off the patients in E.C.F. certified to by competent medical judgment, why may they not then refuse payment to the attending physicians who cared for the patient during the interval subsequently cut-off? Logically, this should follow. If the patient should not have been in the E.C.F. by the judgment of the intermediary, contrary to the opinions of the physician, does not the fee, for professional attendance upon that patient, to the doctor, become cut-off also? This has not happened to my knowledge.

The system of doctors in authority checking upon doctors in attendance upon patients has worked reasonably well in medical education, accredited hospitalization, all forms of medical insurance and in governmental agencies. Where does S.S.A. and the fiscal intermediary derive the privilege of negating all of these activities over and over again? I am certain that in cases I have drawn to your attention the will of the Congress with regard to the Medicare patient receiving proper and just E.C.F. attention is being thwarted.

Please accept this urgent plea from a physician who has come to see this program as the life-giving activity it is. Please look at this problem. Look at the patients who are being cut-off in what appears to be a cold, inhuman, and unjust manner. These people helped to build the greatest nation on earth. They have been given a promise by that nation. Please senators help us keep that promise.

I beg you to trust the physicians participating in this type of patient care and evaluation. They are healing the elderly, sick and disabled; returning them to a status of self care so as not to be the great burden on family and community so frequently seen. They are doing this well below the 100-day limit envisioned by the Medicare Act.

I pledge to you my support in making this program work. But neither I nor the doctors can do anything when people of inadequate background are able to upset our best judgment with immunity from basic factors, such as reference to a patient's medical record, including utilization review, or an appeal by the patient's attending physician.

Mr. Chairman, I am deeply honored that you would take the time to hear me today, and I hope, I pray, that I have spoken in an effective manner on behalf of our patients who have suffered under this program's administration.

REMARKS BY THE HONORABLE HARRISON A. WILLIAMS BEFORE THE SUBCOMMITTEE ON LONG-TERM CARE OF THE U.S. SENATE SPECIAL COMMITTEE ON AGING, MAY 7, 1970

Thank you, Senator Moss, for aptly describing our mutal interest in the matters before your Subcommittee today. Since you have a full witness list, I will be brief.

First, however, I must take a moment to thank you personally for the outstanding and dedicated contributions that you are making to the Committee's overall work.

You are also to be commended for seeking clearcut answers this morning concerning the impact of recent regulations which may have the effect of dismantling the Medicare extended care program—a program which you have worked so hard to develop as an effective alternative to costly hospital care.

Reports to this Committee from nursing home patients and staff personnel express deep concern principally over two regulatory changes. One directive prohibits reimbursement under Medicare for nursing home patients who are merely custodial. Although these individuals may need an extension of the type of care previously received during their hospital stay, payment can be made only if they have rehabilitative potential.

Another restriction permits reimbursement under Medicare only if a patient comes within the meaning of "skilled nursing home care." Several directors at extended care facilities, including one of our witnesses this morning, have criticized this limited definition as being artificial and arbitrary.

This hearing today, I believe, is particularly timely and appropriate. During the past six months, it is reported that more than 500 nursing homes throughout the country have refused to admit Medicare patients. Others are cutting back on the number of Medicare patients that they will admit.

At issue is the practice by certain insurance intermediaries of denying eligibility under Medicare to nursing home patients long after they have been admitted.

This situation is reaching crisis proportions for extended care facility administrators, staffs, patients, and their families.

Nursing homes are in a quandary because of inconsistent and confusing decisions by fiscal intermediaries concerning eligibility and entitlement to reimbursement for covered services. When Medicare benefits are denied retroactively, extended care facilities receive no payment for services they have already rendered in good faith, unless, of course, they can collect from the patient or his family. In order to avoid the risk of denied payment, nursing homes by the hundreds are dropping out of the Medicare program.

For most extended care facilities, it is extremely difficult to determine with any degree of certainty which patients will be covered. This is true although a competent physician certifies in writing that the patient needs extended care. Because of this problem, many doctors are reluctant to refer needy patients to nursing homes for extended care—even though such care would be of important therapeutic value and less costly than continued hospitalization.

The net effect is to increase hospital stays and to reduce days of nursing home care, although this care may cost the Government only one-third of the amount for hospitalization. Many physicians believe that it is preferable to leave the patient in a hospital for convalescence rather than to submit him to such uncertainty. However, shaving one hospital day from Medicare's national average could result in a savings of $400 million.

Unfortunately, in the middle of this "no-man's land" is the unsuspecting patient. At the time of admission, no patient can be absolutely certain of having his bills paid by Medicare, even though he has been certified by his physician. Moreover, this risk for payment of non-covered services by the patient is substantial, since only about one-half of the claims for nursing home care last year were approved. This problem is particularly onerous for the poor and near-poor elderly who are especially hard-hit by these unanticipated bills. In many instances, their financial resources are completely wiped out.

Because of this urgent problem, confusion and widespread public misunderstanding have developed over extended care. Most elderly patients believe Medicare will cover 100 days of post-hospital care provided:

They have been in a hospital for at least 3 days in a row before admission to the extended care facility.

They are admitted within 14 days after leaving the hospital, and

Their doctor certifies that they need extended care for further treatment of a condition treated in the hospital.

However, little effort has been made to inform the public adequately about the program's limitations, such as the coverage for "skilled nursing care" but not for "custodial" care.

Consequently, families and patients become upset, especially if their doctor or the nursing home assured them of coverage. And who can blame them for being upset! A retroactive cut-off in coverage of benefits can mean a charge of well over a thousand dollars in many instances.

Yet, a large number of attending physicians have refused to discharge patients following a denial of their claims. To do so, in their judgment, would be tantamount to malpractice. The result is a vicious circle in which no one is happy.

The patient is angry because his claim will not be reimbursed.

The attending physician is upset because his decision has been overruled by a non-professional, who may not fully understand the medical exigencies of the situation.

And, the extended care facility is frustrated because they have rendered services, but have not been paid.

With this in mind, I am sure, Senator Moss, that your Subcommittee will seek answers to many perplexing questions:

What can be done to correct the present uncertainty for older persons in need of nursing care?

How can more effective procedures be developed to assure extended care facilities of reimbursement for services which they perform?

Should a non-professional have the power to overturn the medical judgment of the physician?

BROTHERHOOD AWARD TO DR. LAWRENCE DAVIS, PINE BLUFF, ARK.

Mr. FULBRIGHT. Mr. President, one of my State's outstanding citizens, Dr. Lawrence Davis, of Pine Bluff, was recently honored as the recipient of the Brotherhood Award given by the Arkansas Council of the National Conference of Christians and Jews.

This is a well-deserved tribute, for Dr. Davis has rendered many years of service to his community and the State and has made a notable record as president of Arkansas A. M. & N. College.

Mr. President, I ask unanimous consent that an editorial entitled "Dr. Davis' Honor," published in the Arkansas Gazette of May 9, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DR. DAVIS' HONOR

It was a memorable moment for Dr. Lawrence Davis on Thursday night when he became the seventh recipient of the brotherhood award given by the Arkansas Council of the National Conference of Christians and Jews. The annual award dinner is a large, impressive affair attended by distinguished community leaders representing a cross-section of the state.

It is especially memorable when one of these honors of such special significance is won in Arkansas, in the South by a Negro. Dr. Davis, president of AM and N college, has come a long way from the year 1929 when as a boy he shined shoes in a barber shop in McCrory, Ark., for Dr. Davis, as for other Negroes, it has been an especially hard road as well as a long one and, for this reason, the success and recognition he has earned is all the sweeter.

In the future in Arkansas, and elsewhere in the country, there is fresh hope for a day to come when a success story like Lawrence Davis's will be no more exceptional for men of one color than for men of another. The hope is refurbished on each occasion when men and women of good will gather, as they did at the NCCJ dinner, to declare that there must be full room and an equal welcome for all of us in the American society.

EXPANSION OF WATER RESOURCES RESEARCH ACT

Mr. JORDAN of North Carolina. Mr. President, 6 years ago, Congress recognized the need for Federal assistance to individual States in development and management of their resources and approved the Water Resources Research Act to initiate that program.

If the need was apparent then, it is even more obvious now with water pollution emerging as one of the Nation's most pressing domestic problems.

Proposals have now been offered in both the Senate and House for expanding the research program and enlarging its scope as a means of finding new ways of coping with that problem.

Because I support the concept and want to see its potential more fully utilized, I invite the attention of the Senate to the way in which the program is already being utilized in my own State of North Carolina.

For that purpose, I ask unanimous consent to have printed in the RECORD a letter from Dr. David H. Howells, director of the Water Resources Research Institute at the University of North Carolina, outlining the purpose and progress of that agency. I hope the information it contains will be useful to Senators in their assessment of the program-expansion proposals.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE UNIVERSITY OF NORTH CAROLINA,
Raleigh, N.C., May 1, 1970.

Hon. B. EVERETT JORDAN,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR JORDAN: Recent bills introduced into Congress to amend the Water Resources Research Act of 1964 (S. 3553 and H.R. 15957, 16274, 16279, 16285) re-emphasize the importance of this act to the individual states in the development and management of their water resources. The bills would increase the authorized annual allotment from $100,000 to $250,000 and authorize programs for the transfer of research results into practice. We deeply appreciate the support given to this pending legislation by you, Senator Ervin, Representative Taylor, Representative Galifianakis and other members of the North Carolina Congressional Delegation.

The Water Resources Research Institute in North Carolina is a unit of the Consolidated University of North Carolina and is located on the campus of North Carolina State University at Raleigh. All senior colleges and universities in the state are encouraged to participate in its program and research is now being conducted on the campuses of N.C. State University at Raleigh, the University of North Carolina at Chapel Hill, Duke University and East Carolina University.

The Water Resources Research Institute of the University of North Carolina works hand in hand with the N.C. Department of Water and Air Resources and other agencies in the formulation of research studies responsive to the state's water resource problems. A twenty-five man advisory committee representative of state and federal water agencies, private industries, agriculture and local government provides program guidance and review.

The North Carolina Institute has pioneered in efforts to bring the research capabilities of a state's universities to bear on state water problems. Methods used include symposia and conferences, workshops, study committees and a steady initiative toward continuing the dialogue with state agencies and other research users to improve university program. A great deal of progress has been made and we are convinced that Title I of the Water Resources Research Act of 1964 authorizes the most effective possible use of federal funds for water resources research. This program has been very effectively administered by the Office of Water Resources Research, U.S. Dept. of the Interior. Maximum latitude has been given to the states in the development of programs unique to their particular problems. The principal limiting factor has been the size of annual allotment which present legislation limits to $100,000. As small as it is however it has generated state support of water resources research which did not exist prior to the Act. In North Carolina, for example, the state legislature is now appropriating approximately $150,000 per year to the Institute—50% in excess of the federal allotment.

All research now underway at the Institute is highly relevant to water resource problems in North Carolina. Some examples are as follows:

WATER RESOURCES PLANNING

Land development in the vicinity of large reservoirs such as the New Hope and Falls of the Neuse is a major problem in resource development and utilization. Contiguous development interacts with the primary purposes of the reservoirs and is one of the most important determinants of the quality of secondary benefits. Demand for reservoir shoreline usage is increasing rapidly. This extends from mass recreational usage to the increasing demand for home sites and even industry. Conflicts between uses of the reservoir and shoreline development can become very acute. The operating cycle of many res-

ervoirs interacts with and frequently determines the desirability of shoreline land uses. Shore-line development may restrict access to the water and hinder primary purposes of the reservoir. The limited knowledge of the processes of development of land in the vicinity of reservoirs has restricted the extent to which these factors are taken into account prior to development. The Institute is supporting the development of a forecast model for the testing of alternative policy mixes for their effectiveness in promoting desirable land development patterns around multipurpose reservoirs.

Water demands are expected to increase by at least a third in the next decade and the search for dependable sources of usable water must be intensified. One major, logical place to concentrate the search is in the headwaters of North Carolina streams. These arise in areas where forests comprise the dominant vegetation. Enough knowledge about streamflow behavior in relation to land treatment has been accumulated to justify an attempt at economic evaluation of increases in water yield and quality which might be anticipated from the application of this information to municipal watersheds in North Carolina. The Lake Michie watershed serving the City of Durham is being used as a study site for this purpose.

North Carolina has the potential for the development of a major waterbased recreation industry. As the public use and demand for this type of recreational activity continues to accelerate, the absence of rationale for estimating the recreation output of natural and artificial bodies of water leaves an ever-widening gap in the credibility of resource development plans. Reliable information on the capacity of water bodies to support recreation is essential to the compilation of recreation resource inventories, management plans, programs, budgets, and cost-benefit comparisons. A project to formulate concepts and methodology for estimating the volume of recreation use which can be properly supported by reservoirs is now nearing completion.

Research and planning associated with the water resources of North Carolina require rapid access to climatological and hydrological data. During the past three years, the Institute has provided funds for the acquisition of these data from ESSA and USGS and conversion to computer storage at the Triangle Universities Computer Center. The system will retrieve records from storage by element, location, area and period—including streamflow, rainfall, temperature, snowfall and evaporation and includes programs for statistical analysis. The system is being made available to state water agencies for use in water resource planning and management.

GROUND WATER MANAGEMENT

To most North Carolinians, the ground water difficulties related to phosphate mining in Beaufort County symbolize the state's water crisis. Protection of the ground water supply from salt water intrusion is essential to the continued development of Eastern North Carolina. An Institute project involves the construction of a computer model that can be used to forecast and evaluate the response of ground waters to alternate strategies of development. It is being carried out in close association with the North Carolina Department of Water and Air Resources.

The Outer Banks are of great importance to the state for their recreational value and protection of the mainland from the open seas. A key factor on both counts is the continued availability of a fresh water supply for domestic use and the growing of dune grasses for dune stabilization. It is imperative that a determination of the fresh water supply be made and that criteria for safe yield be determined to avoid overdraft resulting in salt water contamination. One method of determining the amount and movement of fresh water is to model a cross-sectional area of the Outer Banks. If this model can be used to predict fresh water in one cross-sectional area, other areas can be easily modeled in the laboratory and expensive field investigations eliminated. Such a project is being carried out by the Institute in close cooperation with the District Office, U.S. Geological Survey.

Present drainage practice in the coastal plain threatens the destruction of 1½ million acres of organic soils through oxidation because of overdainage. Drainage plans should provide for water control—keeping the water level sufficiently low for agricultural use and high enough to prevent severe drying and oxidation. In the case of mineral soils, high productivity cannot be attained without proper irrigation and drainage. The extent to which the agricultural potential of the coastal plain is realized will depend upon good water management in both organic and mineral soils. Yet, no criteria exist for surface drainage, surface irrigation, or subsurface irrigation in this area. A study to develop such criteria is now underway.

WATER QUALITY MANAGEMENT

The waters of lakes and impoundments undergo seasonal, chemical, and biological changes which materially transform the quality of the water. Streams flowing into impoundments which carry municipal and industrial waste treatment plant effluents and land runoff may supply sufficient quantities of nitrogen and phosphorus to permit explosive growths of algae. Excessive algal growths can restrict the use of impounded waters for recreational and other purposes. The release of deep water through the dams, unless suitably mixed with surface water, may discharge water of inadequate oxygen content for the support of downstream aquatic life. Tributaries to the New Hope Reservoir now under construction, carry large quantities of nitrogen and phosphorus and lead to the development of a management plan for the New Hope Reservoir to prevent adverse effects and loss of beneficial uses because of water quality deterioration.

The Pamlico River estuary will be markedly changed as a result of phosphate mining and related industrial and population growth. The quality of estuarine waters is important because of their value as fishery nursery areas, for commercial and sport fisheries, and recreational use. Institute studies of the effects of increased phosphorus and nitrogen levels on the quality of the Pamlico estuary are providing the information necessary for state regulation of water use and waste control in this area.

The demand for electric power is doubling every ten years. Fossil and nuclear-fueled steam electric power production involves the disposal of massive volumes of heated cooling waters into North Carolina waters. Only limited information is available concerning the impact of increased temperatures on aquatic ecosystems. A study of temperature effects on whole ecosystems is expected to contribute to the setting of realistic temperature standards for estuaries receiving thermal wastes from electrical generating plants.

Some sections of North Carolina are now confronted with water quality problems requiring the highest possible degree of waste treatment to comply with water quality standards in receiving streams. In this situation the role of runoff from rainfall over urban lands in the management of water quality assumes increasing importance. The relatively small incremental reductions in municipal and industrial wastes derived from adding advance waste treatment to conventional treatment facilities may be masked by wastes from land runoff. The impact of all sources of wastes capable of degrading water quality—controllable or not—must be understood if rational economic decisions are to be made. An Institute study of pollutants contributed to the Research Triangle area by rainfall runoff from a typical urban watershed in Durham, North Carolina is providing useful new information for water quality management.

The use of pesticides in agriculture continues to be intensive—including the persistent chlorinated hydrocarbons. Surface and ground waters must be kept free of these chemicals. A recent study developed a recommended pesticide monitoring system for North Carolina waters for use by the State Department of Water and Air Resources. A current project will determine pesticide runoff from cotton growing which utilizes large amounts of DDT and toxaphene as well as certain herbicides and will provide information useful for water quality management in areas draining agricultural lands.

It is widely believed that agricultural fertilizers are a prime source of nitrogen and phosphorus enrichment of lakes, reservoirs, and estuaries which is producing excessive quantities of algae and other nuisance aquatic plants. However, there are almost no quantitative data on the amounts contributed by agriculturally applied fertilizers. If agriculture is an important source, it is possible that adjustments in fertilizer usage and in cropping systems can be made to maintain high crop production and yet reduce loss to surface waters. If it is not a significant contributor, this fact should be established and corrective efforts directed toward municipal and industrial sources. A current investigation will better define the direct contribution of fertilizers to nitrogen and phosphorus contamination of surface and subsurface runoff and consequent enrichment of streams and lakes.

In North Carolina, the wastes from farm animals are equivalent to the domestic wastes from a population of more than 15 million. A study is now being directed toward a better characterization of these wastes and the development of design standards for animal waste disposal systems.

Most municipal sewerage systems handle industrial as well as domestic wastes. The industrial waste component has rapidly increased in recent years. Municipal charges for receiving and treating these wastes are generally related to the metered water sold, not the amount and strength of the waste. Because of this, there is little incentive for industry to reduce its wastes through in-plant control measures and the net output of treated wastes from municipal systems is higher than it need be regardless of the degree of treatment provided. The Institute is investigating industrial response to sewer surcharges and related social gains to assist local government in the setting of water and sewage charges more in keeping with current needs.

A research program which seeks relevance to water resource problems must be built upon a foundation which includes the characterization of the problems and related research needs, knowledge of what has been done and is being done and techniques for assuring that research results are made available to prospective users in forms that are comprehensible to the variety of disciplines and levels of skill involved. The North Carolina Institute has initiated a special study to further strengthen the present capability to identify research needs and transfer of research results into practice. One of the principal weaknesses of federal water resources research programs lies in this area and failure to develop more effective means severely limits the utilization of current research output. While some progress is being made—the state is severely handicapped by the limited amount of the present $100,000 annual authorization, which is far too small for research alone irrespective of related needs to facilitate the utilization of new research information.

The proposed amendments are imperative to a sustained research effort on state water problems and the efficient utilization of new

information now being generated by all federally supported water research programs.

Sincerely yours,

DAVID H. HOWELLS,
Director.

ARLEN R. WILSON, CASPER, WYO., COMMISSIONED A FOREIGN SERVICE OFFICER

Mr. McGEE. Mr. President, Mr. Arlen R. Wilson, of Casper, Wyo., has recently been commissioned a Foreign Service officer of the United States. Today, I pay tribute to Mr. Wilson for success in achieving this highly competitive and difficult attainment. I am delighted that Wyoming has a new representative in the Foreign Service Officer Corps and to know that it is a man of the caliber of Arlen Wilson.

Mr. Wilson is the son of Mr. and Mrs. Bernard D. Wilson, of Casper, a graduate of Natrona County High School there, and of Casper College. He received his B.A. from Oklahoma State University in 1964 and an M.A. from the Univesity of Wyoming in 1967. He is fluent in Spanish.

His wife, the former Donna Neely, is, like Mr. Wilson, a Casperite who attended Casper College, was graduated from Oklahoma State, and received an M.A. degree from the University of Wyoming.

Mr. President, I congratulate this young couple on their decision to serve the United States in the Foreign Service. We gain by their decision.

BRUNO BITKER THOROUGHLY COVERS THE QUESTION OF "INCITEMENT TO COMMIT THE CRIME" IN REGARDS TO THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, last month Mr. Bruno Bitker, a prominent Milwaukee lawyer with an outstanding record in the field of human rights, testified before a special foreign relations subcommittee convened to consider the Genocide Convention. Mr. Bitker's presentation to the subcommittee dealt convincingly and forcefully with the major arguments that have been raised against the treaty.

The section of this testimony dealing with "incitement to commit the crime" deserves special emphasis. This particular point has been greatly confused and distorted by opponents of the treaty, who contend that this provision of the Genocide Convention would rob Americans of their rights to free speech.

Mr. Bitker conclusively demonstrates that this argument has no merit, and that American citizens will have all the protections now available under the first amendment if the Senate ratifies the Genocide Convention. He focuses on the crucial distinction between advocacy of a crime, which is protected by the first amendment, and incitment to commit a crime, which the first amendment does not protect. And he concludes that the opponents of the treaty have failed to distinguish between the two in their specious argument.

Mr. Bitker's testimony is an informative and comprehensive discussion of the legal aspects of the Genocide Convention which clearly outlines the provisions of this important treaty.

Mr. President, I ask unanimous consent that a portion of Mr. Bitker's testimony be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

HEARINGS ON GENOCIDE CONVENTION

(Testimony of Bruno V. Bitker)

Mr. Chairman and Members of the Committee: I appear today as a private citizen in support of the Senate's advice and consent to ratification of the Genocide Convention.

I am a practicing lawyer in Milwaukee, Wisconsin. As a member of the U.S. National Commission for UNESCO, and the chairman of its Human Rights Committee, I would like to file with this Committee a statement concerning the resolution adopted by the Commission at its annual meeting on March 30, 1965, urging ratification of the Genocide Convention. I would like, also, to file a copy of the resolution of the Milwaukee Bar Association, dated March 21, 1969. The Milwaukee Branch of the Federal Bar Association has adopted a similar resolution.

THE SPECIAL COMMITTEE OF LAWYERS

In 1968 I served on the President's Commission for the Observance of Human Rights Year and was a member of its Special Committee of Lawyers under the chairmanship of Justice (Retired) Tom C. Clark. This latter committee included members of the Federal Court, law professors, the present and former presidents of the American Bar Association, and other practicing lawyers knowledgeable in this field. Its Report in Support of the Treatymaking Power of the United States in Human Rights Matters was released in October 1969. The brief deals with the basic legal and constitutional questions respecting all of these treaties rather than with any specific treaty. I believe it answers all the fundamental questions that might be raised. In the words of Justice Clark in his letter of transmittal:

"I would like to reiterate here, however, our finding, after a thorough review of judicial, Congressional and diplomatic precedents, that human rights are matters of international concern: and that the President, with the United States Senate concurring, may, on behalf of the United States, under the treaty power of the Constitution, ratify or adhere to any international human rights convention that does not contravene a specific Constitutional prohibition."

Because of its pertinency to the issue now before you, I secured and would like to leave with the Clerk sufficient copies of the Clark Report for each member of the Committee.

What I have to say beyond what has been said in that Report relates to specific questions which may effect the Genocide treaty per se.

CONSTITUTIONAL POWER TO ENTER INTO TREATIES

The treaty making power documented in the Clark Report, is almost unlimited so long as it does not rise above the Constitution. The rule has been frequently stated by the Supreme Court and is thus summarized in Geofrey v. Riggs, 133 U.S. 258, 267 (1890):

"It would not be contended that it extends so far as to authorize what the Constitution forbids, or a change in the character of the government or in that of one of the States, or a cession of any portion of the territory of the latter without its consent. But with these exceptions, it is not perceived that there is any limit to the questions which can be adjusted touching on any matter which is properly the subject of negotiations with a foreign country."

See, too, the brief analysis by Professor Lous Henkin in 63 A.S.I.L. April 1969, p. 272 on the broad interpretation of the power.

INTERNATIONAL CONCERN OR DOMESTIC CONCERN

There has been a suggestion that if a matter is of domestic concern it excludes it as a proper subject for a treaty. The rule has long been to the contrary. The United States has frequently exercised its treaty making power on a subject over which the Congress has also exercized its power domestically.

In the original hearings of this Senate Committee in 1950 on Genocide the then Solicitor General of the United States cited various subjects of local concern which have also been covered by treaties. (81 Congress, 2d Sess.; Hearings on Executive O, Jan. 23, 1950, p. 25) A list thereof was also included in the 1967 hearings before this Committee on the Slavery Treaty. (90th Congress, 1st Sess. pt. 2, p. 87)

The recognized authority which obliterates any notion that a local or domestic interest bars it from being one of international interest is the Supreme Court decision of 1920 in Missouri v. Holland 252 U.S. 416. The question was on the right of a state to the sole control over the killing of migratory birds as against the asserted national power to deal with the subject through an international treaty. Presumably this decision which upheld the treaty power should have resolved the issue. But those who object to a treaty on the basis of the domestic versus international basis, in effect seek to overthrow the Court's decision and impose a presently non-existent limitation on the President and the Senate.

It has been said many times, but it should be repeated, that since the country has been able to exercise its power to protect the lives of birds through treaties, it should not hesitate to attempt to prevent mass murder of human beings by international agreement.

ALL GROUPS NOT COVERED

When the Senate originally considered this matter, strenuous objections were advanced on the ground that another group, "political group" was not protected. Article II, which defines the crime, provides that it shall protect every "national, ethnical, racial or religious group". More recently the same notion that the definition is not broad enough has been advanced as a fatal objection to ratification.

The covered groups are so broadly inclusive that it is difficult to understand this as supporting rejection of the treaty. There appears no basis for asserting that the exclusion of any group would be legally fatal. It is true that the United States, during the initial drafting stages, would have included "political group". However, during the extensive deliberations at the UN it became obvious that not only was there the difficult problem of defining a "political group", but insistence on inclusion presented a serious obstacle to the ratification of the Convention by a large number of States. Accordingly the Sixth Committee of the General Assembly did not include it. It did, however, add "ethnical" groups to the rest of the list. As thus reported out by the Sixth Committee, the General Assembly unanimously adopted it.

IMPLEMENTING CONGRESSIONAL ACTION REQUIRED

Some thought has been expressed concerning the possibility that the treaty might be self-executing. If this would have been a valid objection, it does not exist because the specific terms of the Convention make it non-self executing. Article V required the parties "to enact, in accordance with their respective Constitutions, the necessary legislation to give effect" to the Convention and "to provide effective penalties for persons guilty of the punishable acts under Article III."

INCITEMENT TO COMMIT THE CRIME

One of these punishable acts is the "direct and public incitement to commit Genocide". Objectors to making Genocide an international crime cite this provision as an infringement of our constitutional guarantees of free speech and free press. It is hard to conceive that Congress would adopt statutes abridging the 1st Amendment guarantees. But if it actually happened, the U.S. Courts would prevent enforcement. Congress could, of course, adopt legislation to punish incitement to commit the criminal act. This has long been recognized as proper. In objecting on this ground the objectors have failed to distinguish between advocacy, which is protected, and incitement to commit a crime, which is not. Thus in *Frohwerk* v. *U.S.*, 249 U.S. 204, 206 (1920) the Court said:

"The 1st Amendment, while prohibiting legislation against free speech as such, cannot have been, and obviously was not intended to give immunity for every possible use of language. We venture to believe that neither Hamilton nor Madison, nor any other competent person then or later, ever supposed that to make criminal the counseling of a murder within the jurisdiction of Congress would be an unconstitutional interference with free speech".

In a more recent case, *Brandenburg* v. *Ohio*, (395 U.S. 444, 447, 1969) the Court said: ". . . the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action".

In any event, absent the Article requiring implementing legislation by the Congress, the rule has long been that a treaty alone will not suffice for a criminal prosecution. As was said in Over The Top, 5 F. 2d; 838, 1925: "It is not the function of treaties to enact the fiscal or criminal law of a nation. For this purpose no treaty is self-executing".

GEN. WLADYSLAW ANDERS: POLISH NATIONAL HERO

Mr. BYRD of West Virginia. Mr. President, at the request of the able Senator from Connecticut (Mr. DODD), I ask unanimous consent that a statement prepared by him entitled "Gen. Wladyslaw Anders: Polish National Hero" be printed at this point in the RECORD.

There being no objection, the statement by Senator DODD was ordered to be printed in the RECORD as follows:

GEN. WLADYSLAW ANDERS: POLISH NATIONAL HERO

Mr. DODD. Mr. President, I join the entire Polish people in mourning the death yesterday in London of General Wladyslaw Anders, a great Polish patriot and military leader whose name has become synonymous with continued resistance to the Communist subjugation of his motherland.

In Connecticut and throughout the nation, wherever there are Polish-American communities, there will be mourning. For General Anders was more than a Polish hero. In his lifetime it is no exaggeration to say that he had become a symbol of the Polish nation.

General Anders fought against the Nazis and the Russians when they invaded Poland in 1939, in the wake of the Hitler-Stalin pact. He remained a prisoner of war in Russia until mid-1941 when the Nazi invasion of the Soviet Union and the imperative need of Western help obliged Stalin to release the surviving Polish POW's.

Originally, the Russians thought they could get General Anders to organize a Polish army which would fight on the Russian front against the Nazis. But when Anders began looking around for the Polish officers whom he knew to be prisoners of war, he discovered that some 10,000 of them had mysteriously disappeared. As subsequent events revealed, they had been massacred on the orders of Stalin in the Katyn Forest.

Because he was convinced that the Polish army in Russia would be destroyed after Moscow had used it, General Anders persuaded the Allies to urge the removal from the Soviet Union of former Polish POW's and Polish civilians who had been incarcerated in slave labor camps. In a remarkable political and logistical operation, a Polish army more than 100,000 strong was moved out of the Soviet Union via Iran, Iraq and Israel, to the Italian front which had just been opened up.

It is not commonly realized that, after the British and Americans, the Polish army which General Anders commanded was the third largest army to participate in the war on the Allied side.

The heroism of the Polish army in Italy is a legend which those of us who lived through those difficult times will never forget. In the historic battle of Monte Cassino, where the Germans had held out for many weeks against attacking Allied forces, it was the Polish army which finally seized the castle on top the mountain after storming up its bloody slopes; and in doing so, they opened the way to Rome for the Allied forces.

General Anders' death is a sad blow to the Polish exile community and to all men who cherish freedom throughout the world.

In recognition of the very great contribution which he made to the Allied cause in World War II, I have today written to the Postmaster General of the United States urging that the Post Office issue a commemorative stamp in honor of Gen. Wladyslaw Anders. I earnestly hope that this proposal will meet with the approval of the Citizens' Stamp Advisory Committee.

SENIOR CITIZENS MONTH THE NO. 1 ISSUE

Mr. WILLIAMS of New Jersey. Mr. President, May has become the Senior Citizens Month each year. By paying heed during this month to the many contributions made by the elderly to our society—and by focusing our attention on new or chronic problems—units of government and private organizations contribute much to national understanding of important issues affecting aged and aging Americans.

It is my earnest hope that, at all observances this year, adequate attention be given to the major issue facing 20 million older Americans today. I am referring, of course, to inadequate retirement income.

Over the past year, the Special Committee on Aging has conducted hearings and received reports on the "Economics of Aging: Toward a Full Share in Abundance." As chairman of that committee, I have been much impressed by the weighty evidence of widespread income inadequacy among older Americans. There can be no doubt that a retirement income crisis exists in this Nation. There can be no doubt that it affects a majority of Americans of age 65 and up.

But the retirees of today are not the only Americans affected by our lack of full national commitment to reforms in retirement income. Today's workers—the retirees of the future—stand to suffer from the same problem in future decades unless hard decisions and major changes in policy are made.

That point was forcefully and eloquently made in a working paper published last week in conjunction with the final committee hearings on the economics of aging. It was prepared by Mr. Nelson Cruikshank, president of the National Council of Senior Citizens and former director of the Social Security for the American Federation of Labor-Congress of Industrial Organizations.

Mr. Cruikshank's report should be must reading for today's breadwinners, men and women now so beleaguered by bills and expenses of all kinds that they may give far too little thought to retirement income.

But Mr. Cruikshank, in a report addressed directly to them, shows today's workers that they have good reason to support major reforms in social security as a vital foundation for other advances in retirement income maintenance.

His report, entitled "The Stake of Today's Workers in Retirement Income," cannot be reproduced in its entirety here. But I ask unanimous consent that the concluding statements from that paper be printed in the RECORD.

In addition, Mr. President, I wish to thank publicly the many task force members who prepared working papers or other documents for the hearings conducted during the last year on the economics of aging. They, and dozens of witnesses, gave generously of their time and expertise. The consultant for the study, Miss Dorothy McCamman provided the patience, tact, and extensive knowledge needed to bring many facts and people together for this effort.

At the close of the hearings on May 6, I submitted a statement which makes several observations about the study and about the next steps that should be taken. I ask unanimous consent to have it printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

CONCLUSION: THE NEED FOR BOLD REFORM

Our Social Security program, when enacted 35 years ago, was a bold and forward-looking step for a nation acutely suffering from a gigantic depression. But most of the steps to improve the program over the years have been far from bold. These actions—and the 15-percent increase in benefits is the most recent of a long line of examples—have been aimed primarily at alleviating the all too obvious hardship of a retired population that was struggling to keep abreast of rising price levels.

In combination, these efforts have not attempted to tap the Nation's rising productivity or to keep benefits abreast of our rising standard of living. They have instead perpetuated the depression philosophy which gave birth to our social security program.

Bold new steps are long overdue, steps that would immediately enable today's retirees to share in the abundance they helped to create and that would assure to future retirees—today's workers—an income that is adequate in relation to their standard of living prior to retirement. Such assurances can be provided only through major improvements in our time-tested social security system.

To provide such assurance requires a *meaningful increase* in benefit levels. The benefit level has not been significantly raised since 1950 when, after a long period during which only minor adjustment had been made, benefits were increased by an average of 77 percent. The two decades since have been marked by dramatic increases in productivity, earning capacity, costs, and standards of

living. It is time now for a major overhaul in the benefit structure and financing of the system.

A carefully designed plan for social security reform has been proposed by Senator Williams and Congressman Gilbert and their numerous cosponsors in their identical bills (S. 3100 and H.R. 14430). The proposal includes:

An immediate increase of 5 percent in monthly cash benefits with a further 20-percent increase effective January 1, 1972. This two-step increase would raise the minimum benefit to $120 a month in 1972. The maximum benefit (now approximately $190 a month) would go to $340 a month in 1974.

Thereafter, automatic increases geared to increases in living costs.

A widow's benefit at age 65 equal to the husband's benefit.

Improved benefits for workers retiring before age 65.

Liberalized disability benefits.

An increase from $1,680 to $1,800 a year in earnings permissible for retirees without loss of any social security benefits and a liberalization in the treatment of earnings above $1,800.

Elimination of the monthly premium—slated to rise to $5.30 this July—for Medicare part B (doctor insurance).

Extension of Medicare to out-of-hospital prescription drugs.

Coverage under Medicare of disabled persons under age 65.

Earnings up to $15,000 a year credited for social security benefits with benefits based on 10 years of the 15 years of highest earnings.

A more equitable financing method through a higher earnings base for payroll taxes and through a gradually increasing Government contribution eventually equal to approximately one-third the total cost of the cash benefits program.

These major improvements in Social Security would immediately greatly enhance the economic security of workers already retired. Equally important, they would make long-range changes appropriate to the dynamic nature of our economy. Through this major reform, today's workers can come closer to realizing their full stake in retirement security.

CONCLUDING STATEMENT: SENATOR WILLIAMS

The committee of aging, after a year of hearings and research, now concludes its study of the "Economics of aging: Toward a full share in abundance."

And I think we may say that we have provided solid, startling evidence on the nature and dimensions of the retirement income crisis in this Nation.

Witness after witness has told us that the committee has performed an important service by putting the facts together, and by telling the Nation that every American, no matter what his age, has a stake in our deliberations.

We have tried to show that today's crisis, affecting the great majority of the more than 20 million persons past 65 today, will continue and worsen unless major reforms are made.

That point should sink deeply into the national consciousness. And it is now up to the committee to issue a report which will do just that.

Just yesterday, a witness told us that the grimness of the news on college campuses and in Cambodia might well cause many Americans to feel that problems of aging should be set aside for the time being. The elderly should wait their turn.

But then the witness declared—and I agree with him—that the elderly have waited long enough. Their future is now. If our Nation is not able to recognize and deal with one of the most fundamental and deep-rooted problems of our time—widespread poverty among a third of our aged population and widespread want among a large proportion of the remainder—then our nation will be weakened. And if our inaction continues, weakness will cause bitterness and despair, not only among the elderly, but among younger people who will dread, with good cause, the prospect of economic helplessness in old age.

Just this week, the House Ways and Means Committee approved a 5 percent, across-the-board increase in social security. Among the other provisions was much-needed liberalization of the earnings limitation, or retirement test, and 100 percent benefits for widows.

I certainly endorse these changes. But I think that we ir this Nation would make a grave mistake if we do not press for more.

We need a cost-of-living adjustment benefit for future changes.

Within the next two years, we need to raise benefit levels by another 20 percent.

We should put general revenues to wise use to broaden certain social security benefits.

And there is also much to do on medicare.

Even these reforms will deal only with a few of the problems described to this committee during the past year. But they are essential.

The committee has a formidable set of hearings in which many other suggestions for action are made. The Congress—and the people of this Nation—can be sure that this committee will give those recommendations careful attention in the weeks and months ahead.

THE TOTAL ENVIRONMENT

Mr. EAGLETON. Mr. President, last month we observed Earth Week. We must not forget the concern for our environment now that that week is passed. The Senator from Maine (Mr. MUSKIE), chairman of the Subcommittee on Air and Water Pollution, spoke both at Harvard University and the University of Pennsylvania for Earth Week observances. Senator MUSKIE has focused the attention of the Senate and the Nation on problems of environmental pollution since 1963. Moreover, he has led the effort to establish effective programs of pollution control. Until only recently, his was a lonely effort.

During Earth Week, the Senator addressed himself to the concern that we not let environmental protection become just a fad—and that we not let it obscure our deep commitment to ending this ever-widening Indochina war and to securing racial justice and harmony at home. Mr. President, I ask unanimous consent that excerpts from his remarks be printed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

POWER OF ENVIRONMENTAL CONSCIENCE

(Excerpts from the remarks of Senator EDMUND S. MUSKIE, Democrat of Maine, at Harvard University teach-in, Cambridge, Mass., April 21, 1970)

I do not want to take up very much time this evening with formal remarks. I do not think you have come to hear me talk about my legislative program, about what I have done in the past, or about what the President has not done this year.

That is not the point of this program and it should not be. There are some much more fundamental issues that we should discuss.

First, I want to define for you what I think the environmental crisis means.

It means that we must outgrow our traditional way of solving problems one at a time—each in its own limited context—and unrelated to side effects.

It means that we must rethink what we mean by "cost", what is economical or not economical, or what we can afford or cannot afford to do.

It means, at bottom, that our old value systems—whatever may be said for or against them—no longer respond to our needs or fit goals relevant to our future.

Those who believe that the environmental crisis related to trees and not people are wrong.

Those who believe that we are talking about the Grand Canyon and the Catskills, but not Harlem and Watts are wrong.

And those who believe that we must do something about the SST and the automobile, but not ABM's and the Vietnam War are wrong.

We pay twenty times more for the Vietnam War than we pay for water pollution control. We pay twice as much for the SST than we pay for air pollution control. And we pay seven times as much for arms research and development than we pay for housing.

These are some of the first changes we have to make. These changes are part of the fight to save the environment.

But the entire challenge is not one of national priorities and federal spending. Other priorities are involved. They are personal priorities that all of us have shared in the past and that all of us must change. We must do nothing less than forge a wholesale change in our attitudes and our values. This will not be easy. It will not be for motherhood and apple pie. It will not be a summertime war.

We have become an industrialized and technologically sophisticated society. Yet we persist in our faith in the old frontier ethic—belief in infinite expansion and unlimited growth. Now all of us face an internal and personal frontier. It is a moral frontier, defined by our willingness to cut back our selfish exploitation in favor of selfless conservation.

We ought to rethink our concepts of growth and prosperity and progress in light of the kind of society we want to achieve.

Our goal has never been to create a society where human greatness took a back seat to economic growth and technological change. We have sought a society where men could live in harmony with their environment and in peace with each other. In many respects, our growing economy and our mushrooming technology have moved us toward that goal. But in too many other ways, the costs of unrestrained and uncontrolled growth have caught up with us.

If economic growth means rivers that are fire hazards, we had better redirect economic growth.

If prosperity means children dying of lead poisoning, we had better redistribute prosperity.

And if progress means technology that produces more kinds of things than we really want, more kinds of things than we really need and more kinds of things than we can live with, we had better redefine progress.

We are not powerless to effect these changes.

We must go to the ballot box with an environmental conscience and elect leaders who have made a commitment to a healthy total environment.

We must go to stockholders' meetings with the power of proxies, as Campaign GM seeks to do, and require industries to change their ways of doing business.

And we must go to the cash register with the power of our dollars and buy from industries that do not pollute.

If one phrase can characterize our traditional outlook as Americans, that phrase has been "there's more where that came from."

We have thought that there was always more of everything. But now the time is coming—or it is here—when there is no more—

No more clear air or clean water;

No more room for our garbage and trash;

No more patience for poverty; and,

No more tolerance for energy-sapping wars, overseas or at home.

Whether or not we can find ways to achieve fundamental change in a free society is the acid test of a democratic experiment.

The environmental conscience may be the way to turn the nation around. All we need is hard-headed decisions to save our own skins.

A WHOLE SOCIETY (EXCERPTS FROM THE REMARKS OF U.S. SENATOR EDMUND S. MUSKIE, DEMOCRAT OF MAINE, AT THE PHILADELPHIA EARTH WEEK RALLY, FAIRMOUNT PARK, APRIL 22, 1970

One hundred and eighty-three years ago, a small group of men gathered in this city in an effort to bring order out of chaos. They met in the shadow of failure. America had won her independence but was now in danger of breaking up into small and quarrelsome states. Their objective was to build "a more perfect union."

We have met in this city to help build a *whole society*—for we have seen the birthright of a free nation damaged by exploitation, spoiled by neglect, choked by its own success, and torn by hatred and suspicion.

The Founding Fathers did build "a more perfect union." They created a nation where there was none, and they built a framework for a democratic society which has been remarkable for its successes. We are now concerned with its failures.

We have learned that their creation was not infallible, and that our society is not indestructible.

We have learned that our natural resources are limited and that, unless those limitations are respected, life itself may be in danger.

We have also learned that, unless we respect each other, the very foundations of freedom may be in danger.

And yet we act as though a luxurious future and a fertile land will continue to forgive us all the bad habits which have led us to abuse our physical and our social environment.

If we are to build a whole society—and if we are to insure the achievement of a life worth living—we must realize that our shrinking margins of natural resources are near the bottom of the barrel.

There are no replacements, no spare stocks with which we can replenish our supplies.

There is no space command center, ready to give us precise instructions and alternate solutions for survival on our spaceship earth.

Our nation—and our world—hang together by tenuous bonds which are strained as they have never been strained before—and as they must never be strained again.

We cannot survive an undeclared war on our future.

We must lay down our weapons of self-destruction and pick up the tools of social and environmental reconstruction.

These are the dimensions of the crisis we face:

No major American river is clean anymore, and some are fire hazards.

No American lake is free of pollution, and some are dying.

No American city can boast of clean air, and New Yorkers inhale the equivalent of a pack and a half of cigarettes every day—without smoking.

No American community is free of debris and solid waste, and we are turning to the open spaces and the ocean depths to cast off the products of our effluent society.

We are horrified by the cumulative impact of our waste, but we are told to expect the use of more than 280 billion non-returnable bottles in the decade of the seventies.

Man has burst upon the environment like an invader—destroying rather than using, discarding rather than saving, and giving the environment little chance to adapt.

We have depleted our resources and cluttered our environment—and only recently have we been shocked by the enormity of our errors.

As long as Americans could escape the confines of the soot and clutter of our cities, the voices of those who were trapped and the warnings of those who understood were never really heard.

Pollution was isolated by the size and openness of America. A river here, a forest there, a few industrialized cities—these examples of environmental destruction seemed a small price to pay for prosperity.

This was the frontier ethic: America pushing ahead and getting ahead. We had an unlimited future under "manifest destiny."

Now we find that we have over-reached ourselves. The frontier ethic helped us build the strongest nation in the world. But it also led us to believe that our natural and human resources were endless, that our rivers could absorb as much sewage as we could pour into them, that there was automatic, equal opportunity for everyone, that our air would always be clean, and that hunger and poverty were always a temporary condition in America.

Early in the life of our country, we were absorbed in harnessing the energy of a people and the resources of the land and water.

But we are finding today—hopefully in time—that we have done much more than harness our resources; we have conquered them and we are on the verge of destroying them in the process.

We moved and changed and grew so fast that tomorrow came yesterday.

Man has always tended to use up his resources, but never have so many used up so much. We have behaved as if another Creation were just around the corner, as if we could somehow manufacture more land, more air, and more water when we have destroyed what we have.

We have reached the boundaries of the land, and the tide of our civilization has now washed back into our cities.

Today's frontier is internal and personal. We now face—collectively and individually—a moral frontier.

That frontier is the point at which we are willing to cut back selfish exploitation in favor of selfless conservation.

That frontier is marked by the extent of our concern for future generations. They deserve to inherit their natural share of this earth—but we could pass on to them a physical and moral wasteland.

We have reached a point where (1) man, (2) his environment, and (3) his industrial technology intersect. They intersect in America, in Russia and in every other industrial soicety in the world. They intersect in every country which is trying to achieve industrial development.

On this day, dedicated to the preservation of man's earth, we confront our deteriorated environment, our devouring technology, and our fellow man. Relative harmony has become the victim of a three-cornered war—a war where everyone loses.

Our technology has reached a point where it is producing more kinds of things than we really want, more kinds of things than we really need, and more kinds of things that we can really live with.

We have to choose, to say no, and to give up some luxuries. And these kinds of decisions will be the acid test to our commitment to a healthy environment.

It means choosing cleaner cars rather than faster cars, more parks instead of more highways, and more houses and more schools instead of more weapons and more wars.

The whole society that we seek is one in which all men live in brotherhood with each other and with their environment. It is a society where each member of it knows that he has an opportunity to fulfill his greatest potential.

It is a society that will not tolerate slums for some and decent houses for others, rats for some and playgrounds for others, clean air for some and filth for others.

It is the only kind of society that has a chance. It is the only kind of society that has a future.

To achieve a whole society—a healthy total environment—we need change, planning more effective and just laws and more money better spent.

Achieving that whole society will cost heavily—in forgone luxuries, in restricted choices, in higher prices for certain goods and services, in taxes, and in hard decisions about our national priorities. It will require a new sense of balance in our national commitments.

Consider the national budget for 1971. That "balanced budget" represents unbalanced priorities.

That budget "balances" $275 million for the SST against $106 million for air pollution control.

That budget "balances" $3.4 billion for the space program against $1.4 billion for housing. And that budget balances $7.3 billion for arms research and development against $1.4 billion for higher education.

It does not make sense to say we cannot afford to protect our environment—just yet.

It does not make sense to say that we cannot afford to win the fight against hunger and poverty—just yet.

It does not make sense to say we cannot afford to provide decent housing and needed medical care—just yet.

We can afford to do these things, if we admit that there are luxuries we can forgo, false security we can do without, and prices we are willing to pay.

I believe that those of you who have gathered here to save the earth are willing to pay the price to save our environment.

I hope, however, that your view of the environment will not be a narrow one.

The environmental conscience which has been awakened in our nation holds great promise for reclaiming our air, our water and our land. But man's environment includes more than these natural resources. It includes the shape of the communities in which he lives; his home, his schools, his places of work, and those who share this planet and this land.

If the environmental conscience which has brought us together this day is to have any lasting meaning for America, it must be the instrument to turn the nation around. If we use our awareness that the total environment determines the quality of life, we can make those decisions which can save our nation from becoming a class-ridden and strife-torn wasteland.

The study of ecology—man's relationship with his environment—should teach us that our relationships with each other are just as intricate and just as delicate as those with our natural environment. We cannot afford to correct our history of abusing nature and neglect the continuing abuse of our fellow-man.

We should have learned by now that a whole nation must be a nation at peace with itself.

We should have learned by now that we can have that peace only by assuring that all Americans have equal access to a healthy total environment.

That can mean nothing less than equal access to good schools, to meaningful job

opportunities, to adequate health services, and to decent and attractive housing.

For the past ten years we have been groping toward the realization that the total environment is at stake.

We have seen the destructiveness of poverty, and declared a war on it.

We have seen the ravages of hunger, and declared a war on it.

We have seen the costs of crime, and declared a war on it.

And now we have awakened to the pollution of our environment, and we have declared another war.

We have fought too many losing battles in those wars to continue this piece-meal approach to creating a whole society.

The only strategy that makes sense is a total strategy to protect the total environment.

The only way to achieve that total strategy is through an Environmental Revolution—a commitment to a whole society.

The Environmental Revolution must be one of laws, not men; one of values, not ideology; and one of achievement, not unfulfilled promises.

We are not powerless to accomplish this change, but we are powerless as a people if we wait for someone else to do it for us.

We can use the power of the people to turn the nation around—to move toward a whole society.

The power of the people is in the ballot box—and we can elect men who commit themselves to a whole society and work to meet that commitment.

The power of the people is in the cash register—and we can resolve to purchase only from those companies that clean themselves up.

The power of the people is in the stock certificate—and we can use our proxies to make industries socially and environmentally responsible.

The power of the people is in the courts—and through them we can require polluters to obey the law.

The power of the people is in public hearings—where we can decide on the quality of the air and the water we want.

And the power of the people is in peaceful assembly—where we can demand redress of grievances—as we are doing here today and all across the land.

Martin Luther King once said that "Through our scientific and technological genius we have made of this world a neighborhood. Now through our moral and spiritual genius we must make of it a brotherhood."

For Martin Luther King, every day was an Earth Day—a day to work toward his commitment to a whole society. It is that commitment we must keep.

AIRCRAFT CARRIER FLEET

Mr. CASE. Mr. President, during last year's debate on the military procurement authorization bill, the Senator from Minnesota (Mr. MONDALE) and I raised some basic questions about the use of attack aircraft carriers and the proper size of the carrier fleet. As a result of this debate, an amendment was adopted requiring the creation of a joint House-Senate Armed Services subcommittee to make a complete and comprehensive study of the Navy's carrier program.

On April 23, 1970, this subcommittee issued a report recommending the funding of a new attack carrier—the CVAN 70—in fiscal year 1971. This recommendation was made despite the fact that the subcommittee concluded that there is "as yet no acceptable formula" for determining the relative cost-effectiveness of sea-based versus land-based tactical air power; and the recommendation was made despite the subcommittee's admission that it was unable "to resolve the question of the number of carriers" needed by the end of the decade.

Senator MONDALE and I have already stated our objections to the subcommittee's recommenation. We both believe that such a recommendation is unjustified in light of the subcommittee's inability to answer the most fundamental questions concerning the carrier fleet.

On April 8, 1970, Senator MONDALE testified before this joint subcommittee. In his testimony, he raised some basic questions about the Navy's insistence on maintaining a 15-carrier fleet and about the need to fund an additional carrier prior to fiscal year 1975.

I ask unanimous consent that the following items be printed in the RECORD:

First, Senator MONDALE's testimony of April 8, 1970, before the Joint House-Senate Subcommittee on CVAN–70;

Second, the subcommittee's report;

Third, Senator MONDALE's statement on that report.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

TESTIMONY OF SENATOR WALTER F. MONDALE BEFORE ARMED SERVICES SUBCOMMITTEE ON CVAN–70—APRIL 8, 1970

Mr. Chairman: I appreciate the opportunity to testify before this Subcommittee.

Your study of the Navy's attack carrier program is of vital importance. Literally billions of dollars are at stake in determining the proper carrier force level needed to meet various defense contingencies.

At the outset, I want to make it clear that I do not advocate the elimination of the attack carrier from our fleet. Nor have I ever advocated such a position.

Rather, it has been my contention that there is little justification for a fleet of fifteen attack carriers. While carriers have played an important military role in the past, and can continue to do so in the future, the available evidence clearly indicates that fewer than 15 carriers are needed to carry out this role.

The issue, then, which Senator Case and I raised last year—and which I assume you will consider—involves the determination of the number of carriers required in the foreseeable future and the timing of the building and replacement program to maintain the carrier fleet.

The specific question facing Congress this year is whether to begin funding for the CVAN–70, which would be our fourth nuclear attack carrier. I believe that a thorough analysis of the present carrier force level will lead to the conclusion that Congress should authorize no funds for the CVAN–70 until FY 1975, at the earliest.

Before dealing with the more specific issue of funding the CVAN–70, I would first like to discuss my reasons for questioning the continued reliance on a fleet of fifteen attack carriers.

THE LACK OF RATIONALE FOR A 15-CARRIER FLEET

Origin of current force level and carrier's present role

It is generally thought that the force level of 15 carriers originated with the Washington Naval Disarmament Treaty of 1921. This treaty allotted 15 "capital ships" to the United States Navy. When the battleship became virtually obsolete in World War II, the carrier became the capital ship, and the Navy switched from a fleet of 15 battleships to one of 15 carriers.

Since the end of the Second World War, the Navy has maintained, with few exceptions, a fleet of at least 15 attack carriers. This number has been exceeded in only 5 of these years.

During last year's Senate debate on this issue, it was argued that the 15-carrier fleet is a myth and that the actual number of carriers has greatly fluctuated in the past 25 years. But at that time, I pointed to the results of a study by Dr. Desmond Wilson—a Naval Historian employed by the Center for Naval Analysis—showing that the modal number of attack carriers since 1946 has been 15. I am submitting a copy of this study for the record. (See attachment I.)

It is evident, then, that this number "15" is a legacy of the past, maintained without reference to the changing role of the carrier, the changing international situation, or the changing weapons against which the carrier must defend itself. The advocates of 15 attack carriers—like their predecessors who defended the battleship—are following a path of tradition rather than reason.

After World War II, the attack carrier became a force in search of a mission. There were no other surface fleets to engage, and the very existence of the Navy was threatened by the competition of new long range aircraft capable of delivering nuclear payloads. The Navy responded to these events by seeking justification for the attack carrier in strategic nuclear warfare. It appeared to the Navy planners that if the carrier task force was to survive as a major offensive weapon, it would have to get into the business of strategic bombing.

With the advent of land and sea-based missiles such as the Minuteman and the Polaris in the early 1960's, the carrier no longer had any role as part of our nuclear retaliation forces. The Defense Department's posture statement of February 4, 1964, concluded that by 1966, the U.S. would "have a large enough number of strategic missiles in place" to relieve the carrier forces of their strategic retaliatory mission.

Faced with the loss of the *strategic* retaliatory role, the Navy began to emphasize the carrier's potential tactical role in providing air support for ground troops, maintaining air superiority, and destroying supply lines. However, the argument that 15 attack carrier task forces is needed to provide sea-based tactical air power throughout the world is not a persuasive one in view of these changing circumstances.

Land versus carrier-based air power

It is true that where land based air power is not immediately available or where political constraints limit the use of land bases, the carrier may well serve as a *complement to* our overseas bases. But where the carrier clearly *competes with,* rather than complements, land based air power, the role of the carrier must be justified on the basis of its effectiveness and its efficiency.

On these criteria, the maintenance of 15 carrier task forces for the provision of tactical air support around the world appears to be both wasteful and ineffective.

(a) *Overlap and Duplication.*—In the first place, the sustained use of carrier sorties duplicates and overlaps existing and potential U.S. capability for providing land-based tactical air power.

Carrier task forces are assigned to the two major "trouble areas" of the world—9 are available for the Western Pacific and 6 for the Mediterranean. But it is quite clear that our capacity to deploy land-based tactical air power is more than adequate in these areas, as well as in most other parts of the globe where peace or U.S. interests may be threatened.

The United States Air Force maintains 23 wings of tactical fighters and bombers in active forces at home and abroad.

The geographic spread of overseas bases either operated by, or available to, the United States gives us an impressive land-based

tactical capability, especially in the Mediterranean and the Western Pacific. In Europe, the U.S. alone—not including NATO forces—has bases in 6 countries, with over 400 tactical aircraft, at least 4 of those bases are within striking distance of the Mediterranean. In the Pacific, we have bases in 7 countries, with over 800 tactical aircraft.

Furthermore, our capacity for creating new land bases as needs arise is almost limitless. There are at least 1000 overseas civilian air fields which the Air Force, within three days time, claims it can convert to a fully equipped tactical air base using the "pre-positioned kits" of the Bare Base Support Program.

These existing and potential bases do not tell the full story of the effectiveness of our land-based tactical air forces. Another important factor is that the range of modern tactical aircraft is between 2 and 3 times greater than that of the older jets.

Secretary McNamara, in calling for a reduced carrier fleet, pointed out in the Defense Department's February 1964 posture statement that "the increasing range of land-based tactical aircraft has reduced our requirement for forward based air power." This increased range is expanded even further by the use of mid-air refueling. Consequently, our overseas land-based planes are capable of reaching many more targets than they were even 10 years ago; and U.S. based tactical aircraft can be operational anywhere in the world in a short period of time.

The Navy contends that the reduction in the number of our bases justifies the need for a 15-carrier fleet. While these bases have decreased from 119 in 1957 to 47 at the present time, the number of tactical air wings has increased from 16 to 23 during the same period. More important, the greatly increased range of these planes—both in the U.S. and overseas—means that far fewer land bases can provide ample tactical air support in any areas of potential conflict. And the Bare Base Support Program enables the U.S. to supplement existing land bases to the extent that it is necessary to do so. Even with fewer overseas land bases, then, carriers still overlap and duplicate our land-based capability.

This point about overlap and duplication was dramatically illustrated in a September 1969 letter and memorandum from the Department of the Air Force to Senator Hatfield. Senator Hatfield asked whether the loss of overseas land bases had jeopardized the Air Force's tactical air capability. The Air Force responded that "the capability of USAF tactical air has in no sense been diminished by land base activations." The memorandum to Senator Hatfield also contained an extremely significant statement about the over-all capability of land-based tactical air power, which reads as follows:

"There are enough land air bases in Southeast Asia and Europe to base all the tactical fighter aircraft which the Joint Chiefs of Staff estimate are required to meet a major contingency in those areas."

I am submitting for the record a copy of this letter and the accompanying memorandum. (See attachment II.)

The Navy, of course, rejects this evaluation by the Air Force of its tactical air capability. It continually relies on the loss of overseas land bases as a primary justification for a 15-carrier fleet.

Thus, the Navy argues that a carrier can always be counted upon for tactical air support in a limited engagement where land bases may not be available because of political constraints. To be sure, there may be times, as in the early days of the Korean War, where land bases are actually held by enemy forces, and carrier-based air support may be a valuable temporary complement to nearly all land bases.

But how much of our over-all defense capability should be devoted to that unlikely possibility where we might be called upon to defend a nation and, at the same time, be denied the use of its bases for tactical support? And, if the commitment arises out of a multi-nation treaty, such as SEATO, should there not be land bases available to us in at least some of these nations in the treaty organization? If we need carrier-based air power to allow us to meet foreign commitments in areas where the U.S. is denied the use of land base, or it may well be that there is something amiss about the nature of these commitments.

In 1969 Congressional testimony, the Chief of Naval Operations stated that "the carrier will be necessary in the future if the U.S. is to have the flexibility and the selectivity of operations in areas *without first having to make some political arrangement to do so*" (emphasis added). While Senator Case will discuss the foreign policy questions arising from the use of carriers, it should be noted that the carrier's capacity for unilateral action can cause serious problems for the United States.

But leaving aside these foreign policy implications, the Navy's contention that the potential loss of overseas land bases justifies the present carrier force level is a "red herring". Such an argument is only responsive to those critics of the carrier program who favor the elimination of all attack carriers from the fleet.

However, this argument is *not* a relevant response to those of us who have called for a reduced carrier fleet and a delay in the funding of CVAN–70. For in taking such a position, we are acknowledging that *some* carriers are needed (perhaps 10 or 12, or perhaps less) to ensure flexibility in our over-all tactical air capability. And since a delay in the funding of CVAN–70—or a reduction of the present force level—will not impair this flexibility, it makes no sense to use the loss of a base in Lybia as a justification for maintaining 15 carriers. We will still have more than enough carriers to meet this type of contingency.

(b) *Cost.*—More important than overlap alone, however, is the vastly greater cost of carrier-based air power. The Navy itself concedes that the carrier fleet accounts for 40% of its total budget.

The cost of building an attack carrier rose from about $83 million in World War II to $171 million during the Korean War. The original end cost estimate for the first Nimitz-class carrier, the CVAN–68, was $427.5 million; that figure has now risen to $536 million.

But even this figure is not the final chapter on the cost of this carrier. The Navy acknowledges that "if improvements in shipbuilder efficiency do not compensate for the higher than budgeted escalation of labor and national costs which has been occurring, the end cost will increase." A Defense Department official and others have estimated that the cost of this carrier and the CVAN–69 (approved last year) could each run as high as $700 million. That amounts to a cost escalation of 600% since World War II, which is quite high even considering the decreased value of the dollar.

Since the precise cost of a modern nuclear carrier is so difficult to pin down, I strongly recommend that this Subcommittee undertake a study to determine the true cost of these ships. Such a study should also include an analysis of the cost comparisons between land and sea-based air power.

We do know that the cost of the carrier itself is just the beginning of the story. The Navy only operates the carrier with a task force, consisting of various escort and logistical ships. And every carrier is equipped with an air wing.

The Navy estimates a $1.4 billion procurement cost for a nuclear carrier task force—consisting of the carrier and 4 destroyer escorts. The air wing costs an additional $409.5 million—bringing the total procurement cost for the task force—which does not include operating costs, basing costs, and other logistical ships—to $1.8 billion. Needless to say, these costs will often run a great deal higher.

But even this is not a complete picture. For the Navy normally deploys two task forces "on station" in the Mediterranean and three in the Western Pacific on a continual basis. For every carrier task force "on station", two must be held in reserve as backups, since the normal rotation time of a carrier is 4 months. Since each task force contains an air wing, the Navy must pay for 3 wings to keep one "on station." The investment cost of maintaining one nuclear task force on continued deployment, therefore, amounts to a multiple of 3 times the cost of one carrier task force—or $5.4 billion.

These of course, are capital costs, and do not include the operating cost of each carrier. During last year's debate, Senator Ellender supplied valuable data showing that the *annual* operating cost for 16 attack carriers is over $1.5 billion. I am submitting for the record a copy of the chart detailing those costs. (See attachment III.)

The question of the proper attack carrier force level is therefore extremely important. For it is determined that a smaller force level is needed, we will not only save the investment and operating costs of additional carriers, but the cost as well, of numerous escorts, support ships, and air wings.

A land base is a far cheaper operation. According to the Air Force, a base in the Pacific can be built for $53 million; the Bare Base Support Program can convert an existing civilian runway for about $36 million.

The high cost of carrier based air power must be viewed in relation to its effectiveness. The Navy has failed to demonstrate the cost-effectiveness of carrier air power.

For example, we know that the two carrier task forces "on station" in the Mediterranean are capable of providing a maximum of 150 offensive sorties per day. But what is the military significance of this number of sorties? Since we are flying almost 1000 offensive sorties per day in Vietnam, it is clear that 150 sorties would only be of marginal value in a conflict of similar size in the Mediterranean. Given this fact, it is important to determine whether the Navy's policy of continually maintaining a certain number of carriers "on station" is worth the costs.

(c) *Vulnerability.*—The reliance upon carrier rather than land-based air power is made even more questionable by the high degree of vulnerability of the carrier in light of modern weaponry. Carriers are vulnerable to attacks by submarines, aircraft, ship-to-ship and air-to-ship missiles.

Submarines pose a particularly ominous threat to carriers. Because of the very rudimentary nature of anti-submarine warfare, there is very little a carrier can do to defend itself adequately from submarine attacks. The Navy has acknowledged in Congressional testimony that one of the primary missions of the large Soviet submarine fleet is anti-carrier warfare.

Rapid technological innovations in missile development have made the carrier unusable in all but the most limited conflicts. The lethal nature of even the older missiles, such as the Soviet STYX, was recently demonstrated when an Egyptian PT boat sunk an Israeli destroyer with a single STYX. Both the Soviet and the American arsenals contain far more advanced anti-ship missiles, with greater range and higher speed.

Unique to the Soviet inventory, according to the Chief of Naval Operations, is the guided cruise missiles. The Navy estimates that 16% of the Soviet fleet carry 400 nautical mile cruise missiles designed primarily for use against land or sea targets.

In his testimony last year before the Senate Armed Forces Committee, Secretary of

the Navy John H. Chafee spoke of the "wide scope and gravity" of the missile threat to our surface fleet:

In an effort to counter the surface forces, the Soviet Union is developing the capabilities of the terminal-homing cruise missile which may be launched from aircraft, surface units, surfaced submarines, or land sites, at short or long ranges . . . our capability to defend against a cruise missile attack continues to concern us, but we are moving forward with programs directed toward significant long-term improvements.

During secret briefings by the Navy last year, I was told of the rapid advances in missile technology which have led to the development of highly sophisticated anti-ship missiles capable of extremely high speeds. Thus, a vessel designed for combat in World War II will be increasingly threatened by a wide variety of dangerous anti-ship missiles. The implications of this threat should be carefully reviewed, both as to the current and projected state of the art in anti-ship warfare and as to the carrier's capacity to respond to the threat.

The carrier is not completely defenseless against existing threats. Rather, the ever present fear of enemy attack causes the carrier task force to concentrate its resources on defense, thereby substantially reducing its offensive capability. This idea was best expressed in a 1966 dissertation on attack carriers by Desmond Wilson of the Center for Naval Analysis. In Dr. Wilson's words:

"Most of the carriers' usefulness when functioning in support of a land campaign during a limited war appears to be significant only under conditions of little or no submarine opposition. It is a matter of some doubt that the carrier force could continue providing combat sorties in support of a land campaign if the task force commander had to worry about air or submarine attacks."

As Wilson observed, effectiveness of the carrier task forces in limited war is closely related to the problem of vulnerability, which in turn is conditioned by the "rules" of "limits" by which the war will be fought. Threats of escalation, such as the introduction of submarines or aircraft, can diminish carrier effectiveness:

By forcing carriers to stay far at sea, thus diminishing the fuel available to the aircraft for combat purposes; and

By requiring continual movement of the carriers from area to area, thereby preventing it from staying in one locale to provide continual air support.

James Field, a Naval Historian, noted that a carrier task force, in fear of enemy attacks, cannot successfully participate in a campaign of interdiction. He wrote that in Korea, for example, "logistic considerations and the dangers of air and submarine attack made it undesirable for carriers to operate for more than two days in the same location."

Perhaps the most crucial limitation on the carrier's effectiveness is that the threat of attack diverts potentially offensive carrier sorties to defense of the task force. Thus during the World War II and the Korean War, 23% of the total combat sorties flown from carriers were defensive. This contrasts with 2.7% flown by planes from land bases during the Korean War.

Fears and uncertainties concerning an enemy's anticarrier warfare potential also affects the "rapid responsiveness" of the attack carrier, which is its strongest attribute. Wilson noted that uncertainties as to weapons, belligerents, and the "limits" of the war did in fact impede carrier deployment early in the Korean conflict. Future limited wars will also be surrounded by "uncertainties as to who will fight and with what weapons."

Because of the tremendous investment in a carrier and its task force and because of the recognition of the vulnerability of the carrier under certain conditions, the Navy is naturally hesitant to commit the carrier to a conflict or potential conflict. Once committed, the ever present fear of enemy attack may prevent the carrier from serving as an effective sea-base for tactical air strikes.

It should be emphasized that the threats which have limited a carrier's responsiveness and effectiveness in past wars are far more dangerous today. And since Naval doctrine, as Wilson points out, "as yet says nothing about treating the attack carrier as expendable in a limited war", there is every indication that the carrier will be even less effective in future conflicts with a sophisticated enemy.

The Navy, however, refuses to fully recognize the vulnerability of carriers. Its planning for the use of carriers illustrates this fact.

The Navy assumes that the carrier will be a vital participant in the full range of conventional conflicts—the relatively minor Dominican Republican type, the "mid-range" Vietnam type, and the full-scale conventional war—whatever that would be in this nuclear era.

By allocating to itself such a major role in such a range of possible conflicts, the Navy is refusing to acknowledge that events have changed the proper role of the carrier since 1945 by limiting the "scenarios" in which carriers can be effective.

When engaged in a major conventional war with a sophisticated enemy, the carrier task force will be exposed to a complete range of anti-carrier weapons. While the Soviet Union represents the greatest military threat to the carrier, other countries possess various weapons designed for anti-carrier warfare. Many of these weapons have been supplied to other nations by the Soviet Union, including such items as long-range bombers, MIG 21's, the STYX and other anti-ship missiles, and long-range conventional submarines.

There are therefore relatively few "scenarios" in which you can imagine a carrier free from threats of enemy action and thus able to function effectively in an offensive tactical capacity. This is not to say that the carrier has no role in a conflict where the enemy has some anti-carrier capability. But as the capability increases, so does the threat, and carriers simply do not operate effectively in such an environment.

The Navy is quick to remind us that land bases for tactical aircraft are also vulnerable to enemy attack. This is of course true. Land bases are subject to attack by aircraft and missiles; in addition, they are uniquely subject to ground attack and artillery, particularly in a guerrilla war as in Vietnam.

But in examining the relative vulnerability of land and sea-based tactical air power, we must look at their relative effectiveness. The historical record strongly suggests that land bases are less inhibited than carriers by the *threat* of attack and that they are capable of delivering more offensive sorties.

The threat of enemy attack also makes the carrier less desirable from a cost point of view. It has been estimated that at least one-half of the cost of a carrier task force is allocated for carrier defense. This high allocation of resources to defense sharply raises the cost of each carrier-based offensive sortie. In return for this large investment in carrier defense, we have carrier task forces which, in all probability, would be of little value against high-level threats . . . and are overly-oriented toward defense against low level threats.

In response to these arguments about the carrier's vulnerability, Admiral Moorer, the Chief of Naval Operations, told a VFW Convention that "in some 50 wars or near wars since 1946, we have not lost a carrier or had one damaged owing to hostile action." At my request, the Navy sent me a classified list of these "wars or near wars", and I am submitting a copy for the record. (See attachment IV for declassified version.)

The list includes 6 "wars or near wars" in which a carrier was merely "alerted" and was not actually present. In at least half of the total incidents, the carrier was only remotely involved, and the alleged enemy had absolutely no capacity—and usually no desire—to damage an attack carrier. Thus, the list included such "wars or near wars" as the "Haiti disorders" and the "Zanzibar riots." The original classified list submitted by the Navy included other incidents of this type, but the Navy refused to declassify several of them.

The fact that the Navy would resort to this type of argument in response to questions concerning the carrier's vulnerability may be indicative of their uneasiness about this problem. In any event, these questions still remain.

This list is interesting for another purpose. With the exception of Korea, Vietnam, and a few other events, the list demonstrates the relatively minor nature of the carrier's use since World War II. Based on this record of the carrier's rather limited role, a serious question can be raised as to whether 15 attack carriers are really necessary to perform this role.

Failure of other nations to build carriers

It may well be that all of these considerations explain the reluctance of the Soviet Union (and almost every other nation) to rely on attack carriers. In fact, the United States is the only major military power with an attack carrier in its fleet. Neither the Soviet Union or China has built a single attack carrier, and neither plans to do so.

According to a 1969 Report by the Seapower Subcommittee of House Committee Armed Services, the Soviet Union in recent years has built over 500 surface ships in 20 classes. The Report states that the Soviet Union "is developing a massive, well-balanced program in virtually all phases of seapower."

The U.S. Navy not only agrees with this assessment—it constantly stresses the growing menace of the Soviet's surface fleet. Only the absence of attack carriers prevents the Soviet fleet from surpassing ours, according to the Navy. The Chief of Naval Operations recently stated that these carriers "are the key to our present superiority", and that "with too few, or none" in the U.S. fleet, "the Soviets would probably be the leading Naval power."

Even assuming that carriers are the key to our Naval superiority, it is obvious that we do not need as many as 15 carriers to maintain this superiority.

If the carrier is really such a vital ship, the Soviets must not be aware of this fact. They have not constructed a single attack carrier and they have no plans to do so. Since the Soviets are currently in the midst of a massive shipbuilding program and since they obviously have the technological capability to build carriers, their decision to rely on other surface ships cannot be due to limited resources.

The U.S. Chief of Naval Operations offered the following explanation for the Soviet failure to build attack carriers: "Geography, more than any other reason has kept the Soviets out of the aircraft carrier business. The routes of egress from Soviet Naval bases to the open oceans, are by way of choke points, controlled by other powers. For an aircraft carrier such a situation could spell disaster in a shooting war. If the Soviets were to gain control of the points, however, the situation might change."

But this constriction of egress from Soviet Naval Bases to the open seas has not deterred the Soviets from building a large number of almost every other type of surface war ship. If the Soviets can move their carriers and destroyers through those "choke points", then why would a carrier pose a different problem? It would seem that Soviet Naval planners have decided that attack carriers simply are not worth their enormous cost.

The Navy implies on occasion that the Soviets *are* developing a carrier fleet. But the fact is that the Soviet Navy has only two helicopter carriers, and the Soviets apparently have no intention of building the larger attack carriers.

Regardless of the reasons for the Soviet decision not to build attack carriers, our Navy cannot have it both ways. Either carriers are not that vital to a surface fleet and the Soviet Navy is a threat without them *or else* the Soviet's surface fleet is not a significant Naval threat.

Failure of Navy to recognize complementary role

All of these arguments are not intended to prove that there is no need for attack carriers. Indeed, carriers can serve as a complement to land-based air power—but primarily in limited conflicts where land bases are not immediately available.

Despite the Navy's recognition that carriers should be complementary to land-based air power, it has been unwilling to accept the fact that the need for carriers is reduced where there is ample land-based air capability.

Carriers, for example, were useful in the beginning of the Vietnam conflict when land bases were still limited. But a serious question can be raised whether the Navy's *continuing* level of involvement in the Vietnam conflict—once sufficient land bases were constructed there—reflects as much the need to give the Navy a "piece of the action" as a reasoned military judgment.

The designation of 6 carrier task forces to the Atlantic and 9 to the Pacific also attests to the Navy's unwillingness to recognize the complementary nature of carrier-based air power. Commenting on the Mediterranean task forces, Desmond Wilson wrote:

"With the subsequent development of land-based air covering NATO's southern flank, and with the later introduction into the region and coverage of the region by the sea and land-based missile systems, the Sixth Fleet may have become increasingly redundant. It almost certainly became increasingly vulnerable with the marked growth of the Soviet nuclear capability, along with submarine, aviation, and missile delivery systems."

But even this type of fleet development can be carried out with less than 15 attack carriers. To begin with, the Navy claims that 15 attack carrier task forces are required to keep 5 continually "on station"—2 in the Mediterranean and 3 in the Western Pacific. While the Navy points out that the rate of "on station" deployment has actually been higher in the past, they continue to insist that 3 task forces are needed to maintain one "on station" throughout the year. This method of deployment is explained as arising from the need to rest the crew, make necessary repairs, and take care of other logistical problems.

The Navy does concede that, but for the need to relieve the crew, a carrier task force could remain "on station" for a longer period of time. However, they have never satisfactorily explained why the relief of the crew should force the carrier to be withdrawn from forward deployment.

The Navy itself has successfully dealt with this problem in the operation of Polaris Submarines by using what is called a "blue and gold" crew concept—the submarine stays on active duty and the crew is simply rotated. By this method, a Polaris sub is able to stay on active duty for a significantly longer time than the carrier. And yet, the Navy has failed to adapt this method or a similar one to the attack carrier. Such a procedure would make it possible to deploy 5 task forces "on station" with a reduced attack carrier fleet.

Furthermore, it should be pointed out that the Navy's carrier fleet is not limited to attack carriers. There are, in addition, 4 smaller carriers, used primarily for anti-submarine warfare. These carriers are capable of handling several types of tactical jet fighters, and one of them is being currently used in Vietnam in an "attack capacity."

Surely, such carriers could be used to supplement the existing attack fleet in many cases where limited tactical air power is called for. And if carriers are going to be used for evacuating citizens and for the other relatively minor missions depicted in the Navy's list of "wars or near wars" then these smaller carriers are more suited for this purpose than the modern attack carrier, It becomes all the more difficult, therefore, to justify the beginning of a brand new attack carrier in light of the overwhelming cost of a fleet which actually numbers 19.

The "one for one" replacement policy

The Navy not only opposes any delay in the funding of CVAN–70; it also maintains that as each new carrier enters the fleet, only one of the oldest carriers should be retired.

But the attack carriers which have joined the fleet since the mid-1950's are almost double the size of the older carriers, are equipped with the most modern aircraft, and, therefore, have far greater capability for tactical air than the oldest carriers which they replace. The Navy has stated that the nuclear carrier air wing is tactically more than twice as effective as that of the World War II carriers.

For the record, I am submitting copies of two charts prepared by the Navy. The first lists all active attack carriers. The second illustrates the tactical air capacity of each class of attack carrier. This chart clearly demonstrates that the newest classes have far more tactical air capability than the World War II carriers. (See attachement V for 2nd chart.)

But since the Navy has followed a "one for one" replacement policy in the past, the actual capacity of the carrier fleet in terms of providing tactical airpower is far greater than the 15 carrier force level would imply. The Navy's carrier replacement policy would, therefore, more accurately be described as a "two for one" policy—an escalation in fact, of the carrier force level. Even if the Navy can support a case for replacing the older carriers with nuclear carriers, there is no reason why at least two of the older carriers could not be replaced as each new carrier joins the fleet.

This increased capability of the carrier fleet means that today's 15 attack carriers can deliver more tactical air support than the 15 carriers which comprised the fleet in the mid-1950's.

That is why Secretary McNamara relied on the increased capability of the newer carriers as a justification for reducing the size of the carrier fleet. Unless it is assumed that the need for tactical air power has substantially increased in the past fifteen years, a decision to defer the building of an additional nuclear carrier will not endanger national security.

The emerging criticism of present carrier policy

These questions about our present carrier policy have been expressed in the past by Defense and other government officials, as well as by military historians.

There has been serious criticism within the Pentagon of the attack carrier force level. Much of this debate has been kept from public view. For example, the Defense Department's Office of Systems Analysis has often recommended cuts in the attack carrier fleet, but the studies underlying these recommendations have not been made public.

One such study conducted by the Office of Systems Analysis was orally summarized for me last year. This study showed that over a 10 year period, the carrier based wing costs almost $1 billion more than a land-based wing. I urge this Subcommittee to obtain this study, as well as others which may be available.

Criticism of present policy did come to light in the Defense Department's posture statement for fiscal 1965—presented by Secretary McNamara on February 4, 1964—which called for "some reduction in the number of attack carriers by the early 1970's." The factors underlying this decision were the increased tactical air capability of modern carriers and modern carrier-based aircraft, the end of the carrier's role as part of our strategic nuclear forces, and the reduced need for forward based airpower due to the increased range of land based tactical aircraft.

Criticism of the carrier force level from within the Defense Department has persisted. Dr. Arthur Herrington, a Department official, questioned the size of the carrier fleet in a recent speech at the Naval War College (published in the September 1969 issue of *The Naval War College Review*.) He said:

"Today we still plan a 15-(attack carrier) force for the future. Yet over this 25-year period we have seen: a polarization of the world into Communist and non-Communist camps, and lately an increasing fragmentation of both; the development of the Marshall Plan, NATO, the conversion of our enemy in the Pacific, Japan, to an ally, and the conversion of our old ally, China, to an enemy; a doubling of the size of the attack carrier; nuclear propulsion; jet aircraft and nuclear weapons. In truth, 15 attack carriers (or 15 capital ships in the U.S. Navy if you will) appears to be close to an 'eternal verity' in U.S. military planning."

The most revealing admission of the Pentagon's own doubts about the justification for 15 attack carriers can be found in a Departmental Statement filed last year with the Joint Economic Committee. Representative Moorhead of that Committee asked the Defense Department to explain the necessity for a force of 15 attack carriers. "It is very difficult," a Department spokesman wrote in reply:

"To determine the precise division of effort between land-based and sea-based forces which will meet our worldwide commitments at the least cost. The program supported by the previous administration included 15 attack carriers. In response to a directive by the National Security Council to examine alternative General Purpose Force strategies, we are currently reassessing both the total requirement for tactical aircraft to meet each alternative strategy and the relative costs and effectiveness of different mixes of land-based and sea-based aircraft. Pending completion of this study, we are not recommending any major changes in the previous program."

When asked to justify a 15-carrier force level, the Defense Department tells a Congressional Committee that the matter is under study. In the meantime, we are asked to spend millions of dollars to maintain this force level, until Defense officials find the time to determine the proper size of the attack carrier fleet.

Other high level government officials directly responsible for defense planning have also expressed doubts about our carrier policy. Charles Schultze, a former Director of the Bureau of the Budget, testified before the Joint Economic Committee that the request for an additional attack carrier was the first item to be examined in eliminating unnecessary military expenditures.

Similar reservations have also been expressed by military strategists and military historians. In a lengthy case study on the evolution of the attack carrier, Dr. Desmond Wilson raised serious questions about the justification for 15 attack carriers. Dr. Wilson is presently at the Center for Naval Analysis and I recommend that he be called as a witness before this Subcommittee.

RECOMMENDATION FOR DELAYING FUNDING OF CVAN–70

On the basis of the preceding arguments, I believe this Subcommittee should recommend a delay in the funding of CVAN–70 until FY 1975, at the earliest.

The Navy opposes any delay in the funding of this carrier for two reasons.

The first reason was presented by Secretary Laird in the FY 1971 posture statement:

"The Navy considers it important to proceed with advance procurement for CVAN–70 in FY 1971 . . . to avoid having to shut down the Special Nimitz-class carrier nuclear component production lines. Such a shutdown," the Secretary stated, "would further increase the cost for CVAN–70, if we decide later to proceed with it."

Before accepting this assertion by the Navy, it should first be determined whether the companies which produce the nuclear components for the Nimitz class carriers also produce nuclear components for our submarines. I believe they may. If this is the case, then it might be possible to keep the carrier component production lines open indefinitely by using them to produce components for submarines and other nuclear vessels—since the need for the latter type of nuclear components will exist for at least several years. Alternatively, the component production lines for these other ships might be adaptable to the carrier components at some later date.

I do not pretend to be an expert in these matters. But I think it might be possible to delay funding the CVAN–70 for several years without increased costs as a result of closing component production lines.

However, even if such a delay would cause a rise in the final cost of CVAN–70, it would be better to accept this increase rather than to fully fund the carrier in the next two years. For his carrier will cost at least $600 million, and probably will run much higher; and this does not include the cost of the air wing, as well as the cost of escort ships comprising the carrier task force.

Thus, instead of spending at least $1 billion in the next two years to buy a carrier which is not needed, the more responsible action would be to delay in the funding of this extremely expensive ship. While the Navy has not specified the loss which it claims will result from such a delay, I do not believe that it can be significant compared to the budgetary and economic impact of a billion dollar plus Federal expenditure over the next two years.

Aside from these reasons, there is something very troublesome about justifying a major military program on the basis of the need to keep production lines open. Such a justification could be used as an excuse for continuing almost any type of weapons system, regardless of military necessity. In the case of this carrier, it is quite possible that subsequent events will make it unnecessary to begin funding even in FY 1975.

The Navy's reason for opposing any delay in the funding of CVAN–70 does not rest on this argument of increasing costs. The Navy contends that "regardless of the attack carrier force level that may be decided upon in the future," funding for this ship cannot be delayed. The assumption underlying this contention is that a substantial percentage of the attack carrier fleet will soon become obsolete if the Navy's current building program is not maintained.

But the truth is that the request for funding CVAN–70 in FY 1971 *is* based on the Navy's conception of a proper carrier force level. And the force level which the Navy favors calls for *more than* 12 modern attack carriers.

Consider these facts about the present carrier fleet:

(1) Excluding the oldest carriers, the attack carrier fleet consists of one nuclear carrier (the Enterprise); 8 Forrestal carriers; and 1 Midway which has just completed modernization.

(2) The two Nimitz-class nuclear carriers which have already been funded will both have joined the fleet by 1976.

(3) Under the Navy's "rule of thumb" that an attack carrier is obsolete after 30 years, the oldest of these carriers—the Midway—will not be obsolete until 1980; the oldest of the remaining carriers is the first Forrestal, and it will not become obsolete until 1985.

By 1976, then, the carrier fleet will consist of 12 fully modern attack carriers. To maintain a fleet of this size, we will not need to replace the oldest of these carriers—the Midway—until 1980. Given the 5-year lead time required to build an attack carrier, it will therefore not be necessary to fund the Midway's replacement until FY 1975.

That is why my recommendation to delay the funding of the CVAN–70 until *at least* FY 1975 assumes that at the maximum, the force level should consist of 12 modern carriers. It may well be that fewer than 12 carriers of this type will be required to meet future defense contingencies. But unless it is assumed that more than 12 modern carriers are needed, there is no valid reason for funding CVAN–70 before FY 1975.

The Navy is incorrect, in my opinion, in saying that a determination of the proper carrier force level is irrelevant in deciding whether to fund the CVAN–70 at this time. We would be ignoring our obligation to the already hard-pressed American taxpayer if we approve such a huge expenditure in the next two years without first making this determination.

If the Navy believes that the CVAN–70 should be funded now, then it must show why more than 12 modern attack carriers are required. The burden is, and should be, on the Navy, and this burden should not be disregarded because of the Navy's assertion that force level decisions are irrelevant to the funding of CVAN–70.

In determining whether the fleet should consist of more than 12 of these carriers, the following points should be considered.

To begin with, each carrier over 12 should be evaluated in terms of how it adds to the tactical air capability of the carrier fleet. We know that one carrier can provide a maximum of 150 offensive sorties per day—which has only marginal military significance in a conflict such as that in Vietnam, where we are flying over 1,000 such sorties per day. The question, then, is whether this limited increase in tactical air capability is worth the high cost of another carrier task force.

Even if it is considered necessary to increase our overall tactical air capability, this can be accomplished without funding an additional carrier. The fact that a land base is significantly cheaper than a carrier task force means that we can acquire more tactical air capability by investing in a land-based operation rather than in a 13th modern carrier task force. In short, if our aim is to buy the best defense at the least possible cost, we must take into account this cost-differential between land- and sea-based air power.

It should also be kept in mind that the decision to delay the CVAN–70 funding—thereby relying on a fleet of 12 modern carriers—will not impair our flexibility to provide carrier-based air power where land bases are unavailable. A 12-carrier fleet will more than enable us to meet such contingencies, and it is difficult to see how an additional carrier adds very much to this capability.

And finally, I again call your attention to the Air Force letter of September, 1969, addressed to Senator Hatfield. The Air Force statement that the U.S. has sufficient land-based tactical air capability in Southeast Asia and Europe to meet a major contingency in effect means that no carriers are needed in those areas. If we accept the Air Force evaluation, then it is clear that even a 12–carrier fleet is far too large.

It may be argued that this statement by the Air Force should be disregarded, since it is merely a reflection of the long-standing Air Force-Navy controversy over the role of land- versus sea-based air power. But before rejecting this evaluation as "anti-Navy propaganda," I urge you to consider whether or not the Navy's insistence on funding the CVAN–70 in FY 1971 might also be classified as the effort by one service to maintain its position—with little regard for military realities.

In short, the Congress is faced with conflicting claims: on the one hand, the Air Force asserts that carriers are essentially redundant in furnishing tactical air power; on the other hand, the Navy claims that the CVAN–70 is badly needed within the next several years and that the fleet must include more than 12 modern attack carriers. Without thorough investigation, I do not believe we can reject as self-serving the claim of one service, while accepting the claim of another service as the complete truth.

My own view is that the truth lies somewhere between the two conflicting claims: while *some* modern carriers might be required, there is little justification for more than twelve and even less justification for the continued maintenance of a 15-carrier fleet.

Regardless of whether this Subcommittee shares my view, you are still faced with these conflicting claims. And the Department of Defense has never adequately resolved this particular conflict. We know the Air Force position. We know the Navy position. But we do not know the Defense Department's position.

The National Security Council's study now underway may define the proper "mix" between carrier and land-based air power. But that study will not be completed until September, 1970, and it may be delayed even further. The existence of such a study, however, should not relieve the Defense Department of its own duty to present Congress with a rational and coherent plan for providing tactical air power.

I hope that this Subcommittee, before recommending the funding of CVAN–70 in FY 1971, will insist on a consistent position by the Executive Branch and will then attempt to strike a balance between these two claims by determining the proper carrier force level. If the Navy is unable to demonstrate a clear need for more than 12 modern carriers, the prudent course would be to delay the funding of CVAN–70.

ATTACHMENT I

TABLE XIV.—ACTIVE CARRIER FORCE (1946–64) (ATTACK CARRIERS OR THEIR EARLY EQUIVALENTS)[1]

Year	Atlantic/ Mediterranean	Pacific	Total
1946	7	11	18
1947	9	6	15
1948	7	5	12
1949	7	5	12
1950	9	2	11
1951	9	6	15
1952	10	7	17
1953	9	9	18
1954	9	8	17
1955	7	10	17
1956	6	9	15
1957	6	8	14
1958	6	9	15
1960	6	9	15
1961	6	9	15
1962	6	9	15
1963	6	9	15
1964	6	9	15

[1] See app. A for complete listing of carrier force by ship type.

ATTACHMENT II

DEPARTMENT OF THE AIR FORCE,
Washington, D.C.

Hon. MARK HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATFIELD: A few days ago, Mr. Michaelson of your Staff asked the Air Force to provide you with information regarding air bases overseas, quick construction of bases and the performance capability of the F–16. More specifically, I understand your questions were:

1. What is the number of overseas air bases the Air Force has relinquished since the Korean War; why were these bases given up; and has the loss of these bases jeopardized the USAF tactical air capability?

2. What is meant by the "Kit" method of quick construction of land bases as briefly described in the August 25 edition of the *Washington Post?*

3. What is the capability of the Air Force's new air superiority fighter, the F–15?

Although an attempt was made to keep the answers to these questions unclassified, to be completely responsive, an additional classified answer was required for the F–15 because some of the performance parameters of the aircraft was classified and similarly, a portion of the information relating to base closures is classified.

If we can be of any further assistance, please call.

Sincerely,

JOHN MURPHY,
Major, USAF.

MAJOR BASE CLOSINGS

Of the major air bases closed since the Korean War (attachment 1), only those in Morocco, France and Saudi Arabia could be classified as involuntary or political closures. All others and some in France were closed because they either were no longer needed or were closed for economic reasons. Dhahran, Saudi Arabia retains a USAF presence. Many of the bases were used by the Strategic Air Command and as auxiliary bases for tactical air units. Although listed as major installations, those designated "AFB" and "ASN" were not used to base tactical flying units on a permanent basis.

None of the other base changes to date have jeopardized contingency plans nor prevented the formulation of contingency plans to meet current commitments. There are enough land air bases in Southeast Asia and Europe to base all the tactical fighter aircraft which the Joint Chiefs of Staff estimate are required to meet a major contingency in those areas.

In addition, as demonstrated in Attachment 2, there are airfields all over the world that are adequate to support tactical air combat operations. There are more than 1,700 Free World airfields with runways 5,000 feet or longer and there are 685 airfields with runways 8,000 feet or longer. Any nation which requests the assistance of U.S. military forces can be expected to permit use of its airfields. The Air Force is developing bare base equipment which will provide the capability to deploy to any base which has a runway, taxiways, ramp space and potable water source.

In summary, the majority of the land air bases that have been inactivated were not needed or were closed to decrease expenses, although some were closed for political reasons. The capability of USAF tactical air has in no sense been diminished by land base inactivations. Attachment 3 summarizes the number of inactivated and operational USAF bases and the Free World airfields.

ATTACHMENT III

ATTACK AIRCRAFT CARRIERS

Number and name	Date commissioned	Capability to operate all modern aircraft	Capability to operate F–14 aircraft	Total crew	Estimated annual operation cost (millions)
CVA–14, Ticonderoga [1]	1944	No	No	3,625	$62.7
CVA–19, Hancock	1944	No	No	3,625	62.7
CVA–31, Bon Homme Richard	1944	No	No	3,625	62.7
CVA–34, Oriskany	[2] 1950	No	No	3,625	62.7
CVA–41, Midway [3]	1945	All but RA–5C.	Yes	3,417	85.4
CVA–42, Roosevelt	1945	do	Yes	3,417	95.4
CVA–43, Coral Sea	1947	do	Yes	4,474	102.3
CVA–59, Forrestal	1955	Yes	Yes	4,948	106.9
CVA–60, Saratoga	1956	Yes	Yes	4,948	106.9
CVA–61, Ranger	1957	Yes	Yes	4,948	106.9
CVA–62, Independence	1959	Yes	Yes	4,948	106.9
CVA–63, Kitty Hawk	1961	Yes	Yes	4,952	108.4
CVA–64, Constellation	1961	Yes	Yes	5,022	108.4
CVAN–65, Enterprise	1961	Yes	Yes	5,499	115.0
CVA–66, America	1965	Yes	Yes	4,952	108.4
CVA–67, Kennedy	1968	Yes	Yes	4,952	108.4
Total				70,977	1,510.1

[1] To become a CVA (ASW carrier) when the "Midway" joins the fleet in fiscal 1970.
[2] Construction stopped for about 5 years following World War II.
[3] Now undergoing $202,300,000 conversion. To rejoin the fleet during fiscal 1970.

ATTACHMENT IV

SUMMARY OF WARS/NEAR WARS SINCE 1946

(The following list represents only major/minor conflicts or crises where U.S. Naval units were involved as prime factors, alerted or redeployed.)

Place, date, and event

Turkey, April 1946: USSR-Iran hostilities and USSR-Turkey diplomatic tensions; Naval unit deployed as affirmation of U.S. intentions to shore up Turks against Soviet imperialism.

Trieste, July 1946: Trieste ownership dispute; U.S. and British Naval units dispatched to scene with open warfare imminent. Commenced Adriatic Patrol which lasted until Trieste issue resolved in 1954.

Greece, September 1946: Political crisis. Naval Units visit requested by U.S. Ambassador. One carrier was on the scene.

Indochina War, November 1946–July, 1954: Naval units employed in evacuation, assistance, alert status. Three carriers on the scene during latter stages of the conflict.

Israel, June 1948–April 1949: Naval units assigned UN mediator for the Palestine Truce Evacuated UN team eventually in July.

Greek Civil War, 1946–49: Presence and alert. Carriers deployed in the Mediterranean during period of crisis.

Korea, 1950–53: Ten carriers engaged in combat operations during the period of the conflict.

Tachens Crisis, July 1954–February 1955: Evacuation of civilians/military personnel. Five carriers on the scene.

Vietnam Guerrilla War, September 1955–Present: Presence, assistance, combat operations. During the period between February 1965 to date a total of 15 attack carriers have conducted combat operations.

Red Sea, February 1956: Naval unit patrols established in view of developing Suez Crisis.

Jordan Tension, May 1956: Provided presence. Two carriers alerted and deployed to the eastern Mediterranean.

Pre-Suez Tension July 1956: Two carriers alerted.

Suez War October-November 1956: Evacuation, provided presence. Two carriers on the scene, two additional carriers alerted and deployed from East Coast.

Jordan Crisis, April 1957: External conspiracy charged with intent to subvert Jordan. Naval units dispatched. Three carriers on the scene.

Kinmen Island, July 1957: Communist shelling. Naval units dispatched to defend Taiwan. Four carriers on the scene.

Haiti Disorders, June 1957: Alert, surface patrols.

Syria Crisis, August-December 1957: Provided presence. Two carriers on the scene.

Lebanon Civil War, May 1958: Support operations. Three carriers provided air cover for marine landings.

Jordan/Iraq Unrest, August–December 1958: Alert, surveillance, surface patrol.

Cuba Civil War, December 1956–December 1958: Evacuation, provided presence. One carrier on the scene.

Quemoy-Matsu Crisis, September–October 1958: Evacuation, combat operations. Three carriers on the scene, two additional carriers alerted.

Panama Invasion, April 1959: Provided presence.

Berlin Crisis, May 9, 1959: Two carriers alerted and brought to an advanced state of readiness.

Nationalist China-Communist China Crisis, July 1959: Provided presence. Two carriers on the scene.

Panama Demonstrations, August and November 1959: Alert.

Laos Civil War, December 1960–May 1961: Provided presence. Three carriers on the scene.

Congo Civil War, July 1960–August 1963: Alert, evacuation.

Caribbean Tension, April 12, 1960: Alert, air and surface patrols.

Guatemala-Nicaragua, November 1960: Air and surface patrols. One carrier on the scene, one additional carrier alerted.

Bay of Pigs Crisis, May 1961: One carrier alerted.

Zanzibar Riots, June 1961: Alert.

Berlin Crisis, September 1961–May 1962: Two carriers alerted and brought to a higher state of readiness.

Dominican Republic, November 12, 1961: Air and surface patrols. One carrier on the scene.

Guantanamo Tension, January and July 1962: Alert, provided presence.

Guatemala, March 1962: Alert, provided presence. Two carriers alerted.

Thailand, May 1962: Provided presence. Two carriers on the scene.

Quemoy-Matsu Crisis, June 1962: Provided presence. Three carriers on the scene.

Cuban Missile Crisis, October–November 1962: Provided presence and intervention. Eight carriers on the scene.

Yemen Revolts, February–April 1963: Alert, provided presence, surface patrols.

Laos Tension, April 1963: Provided presence. Two carriers on the scene.

Jordan Crisis, April 1963: Provided presence, surface patrols. Two carriers on the scene.

Caribbean Tension, 1963: Alert, air and surface patrols. One carrier alerted.

Vietnam Civil Disorders, August, September and October 1963: Air and surface patrols. Two carriers on the scene.

Dominican Republic, September 1963: Alert.

South Vietnam Crisis, November 1963: Following death of President Diem. Provided three carriers on the scene.

Indonesia-Malaysia, December 1963: Alert, provided presence. Two carriers alerted.

Panama, January 4, 1964: Alert, provided presence and evacuation.

Guantanamo Tensions, April 7, 1964; Provided presence, surface patrols.

Panama, May 1964: Provided presence.

Dominican Republic, June and July 1964; Air and surface patrols.

Tonkin Gulf, August 1964: See item 9.

Dominican Republic, April 1965: Intervention and combat operations. Two carriers alerted.

Arab-Israeli War, June 1967: Provided presence. Covered evacuation of U.S. citizens. Two carriers on the scene.

Pueblo Capture, January-April 1968: Redeployment of force; maintained presence in area to take actions as directed. Three carriers on the scene (five carriers participated).

EC–121 Loss, April 1969: Redeployment of forces: maintained presence to take actions as directed. Four carriers on the scene.

ATTACHMENT V

NOMINAL AIR WING COMPLEMENTS

Enterprise/Kitty Hawk/Forestal classes

2 Fighter Squadrons (F–4).
2 Light Attack Squadrons (A–7).
1 Attack Squadron (A–6)
1 Electronics Warfare/Tanker Squadron (EKA–3).
1 Airborne Early Warning Squadron (E–2).
1 Reconnaissance Squadrom (RA–5C).
1 Rescue Squadron Detachment (UH–2).
Total A–4 equivalents, 132.

Midway class

2 Fighter Squadrons (F–8) F–4s assigned when available.
2 Light Attack Squadrons (A–7).
1 Attack Squadron (A–6).
1 Electronics Warfare/Tanker Squadron (EKA–3).
1 Airborne Early Warning Squadron (E–2).
1 Reconnaissance Squadron (RF–8G).
1 Rescue Squadron Detachment (UH–2).
Total A–4 equivalents, 108.

Hancock class

2 Fighter Squadrons (F–8).
3 Light Attack Squadrons (A–4).
1 Electronics Warfare/Tanker Squadron (EKA–3).
1 Airborne Early Warning Squadron Detachment (E–1B).
1 Reconnaissance Squadron Detachment (RF–8G).
1 Rescue Squadron Detachment (UH–2).
Total A–4 equivalents, 83.

Nimitz class (the air wing listed below is planned for the Nimitz in fiscal year 1973)

2 Fighter Squadrons (F–14).
2 Light Attack Squadrons (A–7).
1 Attack Squadron (A–6).
1 Tanker Squadron (KA–6).
1 Electronics Warfare Squadron (EA–6).
1 Airborne Early Warning Squadron (E–2).
1 Reconnaissance Squadron (RA–5C).
1 Rescue Squadron Detachment (UH–2).
Total A–4 equivalents, 152.

(NOTE.—The *types* of aircraft which can be operated by a carrier depend primarily upon the flight deck and its installations such as the catapults, arresting gear and elevators. Ship-installed support facilities also limit aircraft types which can be operated. The *number* of aircraft which can be carried depends upon deck area and the mix of types. Some types of aircraft are considerably larger than others, and a smaller total of generally larger aircraft can be physically accommodated. The smallest tactical aircraft in the U.S. Navy's carrier inventory is the A–4 Skyhawk. Therefore, for standardization purposes, the Navy expresses carrier aircraft capacity in terms of A–4 equivalents.)

REPORT OF THE JOINT SUBCOMMITTEE OF THE HOUSE OF REPRESENTATIVES AND SENATE COMMITTEES ON ARMED SERVICES ON THE STUDY FOR THE CVAN–70

STATUTATORY REQUIREMENT

This report responds to the requirement set forth in the Military Procurement Authorization Act for fiscal year 1970 (Sec. 402 of Public Law 91–121). The provision is as follows:

"SEC. 402. (a) Prior to April 30, 1970, the Committee on Armed Services of the House of Representatives and the Senate shall jointly conduct and complete a comprehensive study and investigation of the past and projected costs and effectiveness of attack aircraft carriers and their task forces and a thorough review of the considerations which went into the decision to maintain the present number of attack carriers. The result of this comprehensive study shall be considered prior to any authorization or appropriation for the production or procurement of the nuclear aircraft carrier designated as CVAN–70.

"(b) In carrying out such study and investigation the Committees on Armed Services of the House of Representatives and the Senate are authorized to call on all Government agencies and such outside consultants as such committees may deem necessary."

BACKGROUND

The cited statutory study requirement resulted from a House-Senate conference agreement to delete, from the fiscal year 1970 procurement program recommended by the Department of the Navy, an item proposing the procurement of the long leadtime items required for the construction of a new nuclear-powered attack aircraft carrier, the CVAN–70.

SUBCOMMITTEE ACTION

Pursuant to the statutory requirement, the following members were appointed by the respective chairmen of the Armed Services Committees to serve on this special subcommittee;

From the Senate Committee on Armed Services: Senators John C. Stennis, Stuart Symington, Henry M. Jackson, Strom Thurmond, John G. Tower, and George Murphy.

The House members designated were Charles E. Bennett, Samuel S. Stratton, and Robert T. Stafford.

By unanimous consent of the group, Senator Stennis and Congressman Bennett served as co-chairmen.

The subcommittee in its desire to fully discharge its statutory responsibilities agreed to solicit the expert testimony of those individuals who by their previous identifications with this complex subject matter, could make a meaningful contribution to the subcommittee's effort.

These individuals, except in a few instances, accepted the invitation of the subcommittee to participate in this study and apj eared as witnesses in the following order.

April 7, 1970—Hon. John H. Chafee, Secretary of the Navy; Adm. Thomas H. Moorer, Chief of Naval Operations; Rear Adm. James L. Holloway III, CVAN program coordinator.

April 8, 1970—Senator Walter F. Mondale and Congressman William S. Moorehead, Senator Case submitted a statement for the record.

April 10, 1970—Adm. Thomas H. Moorer, Chief of Naval Operations, and Rear Adm. James L. Holloway III, CVAN program coordinator.

April 13, 1970—Dr. Desmond P. Wilson, professional staff member, Center for Naval Analyses.

April 15, 1970—Gen. Earle G. Wheeler, Chairman of the Joint Chiefs of Staff, and Vice Adm. H. G. Rickover, Deputy Commander for Nuclear Propulsion, Naval Ship Systems Command.

April 16, 1970—Dr. William W. Kaufmann, senior fellow, Brookings Institution, on leave as professor at Massachusetts Institute of Technology.

The testimony received by the subcommittee during its proceedings will be printed, and except for deletions made necessary by national security considerations, will be published in its entirety as a public document. The subcommittee, in fulfillment of its statutory obligation, has completed its hearings and study of the past and projected costs and effectiveness of attack aircraft carriers and their task forces, and the considerations which went into the decision to maintain the present number of attack carriers.

THE CARRIER STUDY AND ITS RELATION TO THE CVAN–70

The statute provides for a comprehensive review of the entire concept of naval attack carrier forces. The subcommittee recognizes that implicit in the study requirement is the necessity for determining whether to provide congressional approval for the ultimate construction of a nuclear aircraft carrier identified as the CVAN–70.

THE PRESIDENT'S RECOMMENDATIONS

The President, in his budget message to Congress for fiscal year 1971, specfically recommended that he be provided authority to procure long leadtime construction items for the CVAN–70 in the amount of $152 million.

The presidential budget message contains the following statement with respect to the requested funds for long lead items:

"The Budget also provides for additional large assault ships for our amphibious forces, together with funds for advanced procurement related to construction of the third nuclear-powered *Nimitz* class attack carrier. However, the advance procurement funds for the third carrier will not be obligated until completion of studies in progress to assess future requirements for attack carriers."

THE SECRETARY OF DEFENSE'S RECOMMENDATIONS

The Secretary of Defense, in presenting to the Congress the fiscal year 1971 procurement program for the Department of Defense, strongly urged congressional approval of the President's request on the CVAN–70.

Subsequently, the Secretary of Defense, while recognizing the necessity for completion of the National Security Council review, has reaffirmed his support of the CVAN–70 in a letter to the chairman of the Senate Armed Services Committee on April 3, 1970, when he said:

"The requirements and commitments of the current strategy make it necessary, in my judgment, for this Nation to proceed with the construction of this final ship of a three-ship construction program first laid out in fiscal year 1967."

THE JOINT CHIEFS OF STAFF RECOMMENDATIONS

The Joint Chiefs of Staff have unanimously endorsed construction of the CVAN–70 despite the fact that there exists a difference of opinion among the service chiefs as to the number of carriers we should have in our carrier force in future years.

CONCLUSION AND RECOMMENDATION OF THE SUBCOMMITTEE

As a consequence of the extensive hearings conducted by the special Senate-House subcommittee as directed by section 402 of Public Law 91–121, a majority of the Senate Members and all of the House Members strongly recommend that the Congress approve the request of the President for the funding of long leadtime construction items on the CVAN–70 for fiscal year 1971.

Findings on which the subcommittee's recommendations are based include the following:

ON ROLES AND MISSIONS OF CHARTER

The attack aircraft carrier has in the past and will into the foreseeable future, continue to perform a vital and indispensable role in insuring the control of our sealanes essential to our commerce. Our industrial operations could not last more than a very short time if our strategic materials were to be cut off from overseas.

In addition, carrier air forces are able to provide tactical air in support of land forces operating far beyond existing American air bases or where such bases have been rendered inoperative. In particular, with the current emphasis on reducing American commitments abroad in both Europe and the Pacific, the highly mobile carrier provides a unique means of providing American air power in distant locations without establishing bases and installations ashore.

MODERNITY OF CARRIER

The attack aircraft carrier, like every other major weapon system of our national defense, is subject to obsolescence induced by age and advancing technology. Therefore, like all other weapons systems, the attack carrier system must be modernized on a timely basis despite the significant costs involved.

The following table is an illustrative example of the relative capabilities of old and modern attack carriers, by class, reflecting single strike capabilities and air ordnance, jet fuel, and steaming endurances without replenishment:

	Hancock	Midway	Forrestal	Nimitz
Commissioning periods	1944–50	1945–47	1957–68	1972—
Single strike capability	1.0	1.3	1.6	2.0
Ordnance endurance	1.0	1.4	2.5	3.8
Jet fuel endurance	1.0	1.8	2.6	5.2
Steaming endurance	1.0	1.0	1.0	(1)

[1] Virtually unlimited.

COMPARATIVE COSTS OF CARRIER AND LAND BASED TACTICAL AIR

The subcommittee attempted to satisfy the statutory requirement for the study of past and projected costs of the attack aircraft carriers and their task forces. Several different analyses were presented to the subcommittee on this matter comparing sea-based tactical aviation with land-based tactical aviation.

It is significant that the Department of Defense advised the subcommittee that even though the comparative costs of the various alternatives have been under study for some time by the Department of Defense, there is no agreed-upon position within the Department on this matter.

To illustrate the difficulties encountered by the subcommittee in attempting to address this question, General Wheeler, Chairman of the Joint Chiefs of Staff, stated:

"Now this is an extremely complex problem, and the reason it is complex is that you have to figure out what you are going to charge off against the cost of land-based tactical air versus what you charge off against sea-based tactical air, and depending upon what you charge off, you come up with these varying figures.

"I must say that I don't regard any of these studies myself as being definitive, and they certainly are not convincing to me as a basis for making a judgment as to the need for sea-based tactical air."

In view of these circumstances, it is evident to the subcommittee that there is as yet no acceptable formula for accurately quantifying and measuring the precise cost-effectiveness of land-based versus sea-based tactical airpower.

ON THE NUMBER OF CARRIERS

The Defense budget for fiscal year 1971 supports a force of 15 attack carriers plus the one additional CVS (antisubmarine warfare) carrier authorized for use as an attack carrier during the Vietnam war. Unless there is a substantial change in our international commitments and the Vietnam war, the subcommittee supports the number of carriers provided for in the President's budget for fiscal year 1971.

The subcommittee was unable to resolve the question of the number of carriers that should be provided to our Armed Forces in the 1975–80 time frame, an issue which will be influenced by the degree of modernity of the carriers in being. This question also involves future foreign policy decisions which remains to be determined.

The subcommittee, in consideration of the full range of carrier capabilities including modernity and the exceptional advantages of nuclear power, is of the opinion that the long lead funds for the CVAN–70 should be approved.

Senators: John C. Stennis, *Co-chairman;* Henry M. Jackson; Strom Thurmond; John G. Tower; and George Murphy.

Representatives: Charles E. Bennett, *Co-chairman;* Samuel S. Stratton; and Robert T. Stafford.

ADDITIONAL STATEMENT OF SENATOR JOHN C. STENNIS

I fully support the concept of adding the CVAN–70 to our attack carrier fleet and personally think the leadtime items should be provided for in the fiscal year 1971 authorization bill. As stated before I will not be in a position to make a firm recommendation for including this additional carrier in the fiscal year 1971 authorization bill until there is a firm request therefor by the executive branch.

MINORITY VIEWS

One of the primary reasons for the establishment of this Joint Senate-House Armed Services Subcommittee on the CVAN–70 Aircraft Carrier (appointed pursuant to sec. 402 of Public Law 91–121) was the desire of the Congress to have a joint committee conduct a study and review of the entire matter of force levels and costs with respect to attack carriers. It was presumed that in connection with any new carrier the Congress would have a firm position from the administration. The budget message, however, states that "the advance procurement funds for the third carrier will not be obligated until completion of studies in progress to assess future requirements for attack carriers."

Without any clear direction from the executive branch, and because of (1) the high cost of this proposed additional nuclear aircraft carrier; (2) the possibility that a review by the National Security Council of strategic and tactical force levels will result in the recommendation of a future carrier force level which would not necessitate the construction of the CVAN–70 at this time for the 1975–80 time frame; (3) increasing evidence that we must give more recognition to such growing domestic needs as education, housing, control of various forms of pollution, and so forth; and (4) the growing financial crisis incident to further depreciation in the purchasing power of the dollar, I wish to withhold my decision with respect to recommending the authorization of long leadtime items for the CVAN–70 until we have the opportunity to review the results of this report from the National Security Council with respect to overall national strategy for the 1975–80 period, including the proper attack carrier force level.

Senator STUART SYMINGTON.

STATEMENT OF SENATOR WALTER F. MONDALE, DEMOCRAT OF MINNESOTA

A Senate-House Armed Services Subcommittee has recommended funding for a fourth nuclear attack carrier, the CVAN–70. This recommendation was made despite the fact that the Executive Branch has stated that funds for this carrier will not be obligated until the National Security Council completes its present review of strategic and tactical force levels. Their study will not be completed until September, 1970, at the earliest.

I want to commend Chairman Stennis for his position on this important issue. While the Chairman supports the concept of adding CVAN–70 to our carrier fleet, he has stated that he will not make a firm recommendation for funding this additional carrier in FY 1971 until there is a firm request to do so from the Executive.

I also commend Senator Symington, who feels that the results of the National Security Council study should be considered before deciding the question of funding the CVAN–70.

But the Subcommittee itself wants to fund this carrier now. It bases this recommendation on a report released on April 23, 1970, which was required by last year's Military Procurement Authorization Bill. It is my belief that this report fails to fulfill the Congressional requirement for a complete and comprehensive study of the Navy's attack carrier program.

The law called for a study of the carrier's cost-effectiveness. The Subcommittee concluded that there is "as yet no acceptable formula" for determining the cost-effectiveness of land-based versus sea-based tactical air power.

The law called for a review of the present carrier force level. The Subcommittee concluded that it was "unable to resolve the question of the number of carriers" needed by the end of the decade.

Yet, the Subcommittee's inability to resolve these basic and crucial questions did not prevent it from "strongly recommending" the funding of CVAN–70 in FY 1971. According to the report, "the attack carrier system must be modernized on a timely basis despite the significant costs involved."

This is a conclusion based more on instinct than analysis. It is completely unjustifiable to recommend funding for a fourth nuclear carrier without first determining the proper carrier force level.

For the decision to build this carrier can only mean one thing—that we favor a fleet or *more than* 12 modern attack carriers.

An examination of the present carrier fleet demonstrates this fact:

1. Excluding the oldest carriers, the attack carrier fleet consists of one nuclear carrier (the Enterprise); 8 Forrestal carriers; and 1 Midway which has just completed modernization.

2. The two Nimitz-class nuclear carriers which have already been funded will both have joined the fleet by 1976.

3. Under the Navy's "rule of thumb" that an attack carrier is obsolete after 30 years, the oldest of these carriers—the Midway—will not be obsolete until 1980; the oldest of the remaining carriers is that first Forrestal, and it will not become obsolete until 1985.

By 1976, then, the carrier fleet will consist of 12 fully modern attack carriers. To maintain a fleet of this size, we will not need to replace the oldest of these carriers—the Midway—until 1980. Given the 5-year lead time required to build an attack carrier, it will therefore not be necessary to fund the Midway's replacement until FY 1975.

If this subcommittee believes that the CVAN–70 should be funded now instead of later, it must show why more than 12 modern attack carriers are required. There is no such showing in this report.

I will not be a party to this fund now, justify later philosophy. If neither the Subcommittee or the Executive is able to determine whether we need more than 12 modern attack carriers, Congress abdicates its

constitutional duty by issuing a signed check for one more nuclear carrier.

I want to make it clear that I do not advocate the elimination of all attack carriers. Nor have I ever advocated such a position.

But I do believe that the Congress must have clear justification for funding a 13th modern carrier task force before approving a potential expenditure of more than $2 billion. Without this justification, it is unconscionable to ask the already hard-pressed American taxpayer to bear the burden of such an expenditure.

HITCHING POST INN, CHEYENNE, WYO.

Mr. McGEE. Mr. President, the Hitching Post Inn, in Cheyenne, Wyo., is one of the excellent examples of first-rate, full-service travel facilities in my State. It is an old but ever-progressive institution, under the management of Mr. and Mrs. Harry Smith and their son Paul.

Recently, the Tourist Court Journal carried a significant article which tells something about the philosophy of the Smiths and how it has led to success in a demanding business. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY "LADY LUCK" SEEMS TO SMILE ON THE HITCHING POST INN

(By Ray Sawyer)

At first appraisal, it would appear that "Lady Luck" has smiled generously upon the 165-unit Hitching Post Inn, Cheyenne, Wyo., and its operators, Harry and Mrs. Smith, and their son, Paul. This full-service, resort-type operation features luxurious rooms; lavish restaurant, meeting lounge and entertainment facilities; indoor and outdoor swimming pools; a health club; and other guest conveniences.

And the Smiths bring to it an enormous amount of talent and experience. Smith, who might be labeled general manager, has been at the helm guiding its course for some 33 years. His wife, Mildred, who oversees the motel facet of the operation, has been with it since their marriage 29 years ago, and contributes, among other things, a remarkable knack for interior decorating. And Paul Smith, who serves as manager of the restaurant and lounge, grew up with the business and holds a Hotel & Restaurant Admin. degree from Michigan State Univ.

Pretty lucky setup, wouldn't you say? But when you zoom in for a close look at this operation and its operators, it doesn't take very long to discover the brand of luck it, and they, have been blessed with. It is probably best described by one successful old sage who, when told by an observer how lucky he was to be amassing such an estate, replied, "I find that the harder I work, the luckier I get." And as a result of applying the same formula, with careful attention to the demands of the traveling public, the Smiths find themselves entering their fifth decade at their original site with "excellent" ratings in both the *AAA Tour Book* and the *Mobil Travel Guide*.

Smith's father began the operation in 1930 with 24 units, a service station and a grocery store. At that time, motel rooms were quite bare, displaying only a bed and mattress. Guests brought along their own linens and towels, and used outside shower and toilet facilities.

In 1937, the elder Smith passed away, and young Harry was faced with the monumental decision of whether to continue in his chosen profession of civil engineering—he was employed with the Bureau of Reclamation—or to enter the motel business. His first impulse was to sell the property. But after a great deal of soul-searching, he decided to "change horses at midstream" and become a motel operator. "You could see the industry begin to pick up at that time," he says.

And enter it in earnest, he did. From the outset, he was continually adding to and updating the property, leading it ahead of its competition through every phase of automobile travel. "He's just a frustrated engineer—always building and adding something," laughs Mrs. Smith.

Looking back at the Thirties, Smith recalls that hot-and-cold running water was what made a motel modern for a time. "Then, guests began to demand inside showers and toilets," he says. "For a while, this was what set you off from the competition. Next, it was cooking facilities, and then tubs and showers."

With World War II came OPA restrictions and the scarcity of building materials, and the operation came to a near standstill. However, during this dormant period, the Smiths formulated plans for food service, feeling the coming need for an on-premises facility. They felt that a first-class operation could no longer afford to send its guests out looking for food.

They began with a small dining facility, which proved an instant success both with motel guests and local residents. It was so successful, in fact, that two weeks after it was opened, all the equipment—stoves, dishwashers, everything—had to be replaced with larger models.

Next came a larger dining room and a cocktail lounge. Then, two more public rooms were added. "We began to see the future of renting public rooms for meetings and conventions," says Smith. "And we wanted to be ready. Everything was carefully planned in advance."

Today, as has been the case since their inceptions, both the motel and food service segments of the operation are pacesetters. And the Smiths attribute this success to several factors.

Perhaps the most important is their attitude toward criticism. "We love it," says Mrs. Smith. "Paying attention to it and doing something about it is what has kept the business going, rather than falling behind and deteriorating. And it has kept new places from coming in and setting us back."

For example, adds Smith, "A lot of motel people say AAA is too critical. Our feeling is this. We know we are pretty good. But the AAA inspectors see all of the rooms in the country, and they can tell us how we can improve and get better with their comments on our shortcomings. People don't come here because we are Harry and Mildred Smith. They come because of what we offer them."

Comments from guests, both oral ones at the desk and those written on the large, attractive comment slips placed in the rooms, are also welcomed and used to advantage. "These often clue us in on things we wouldn't learn from any other source," says Mrs. Smith. "We compile a statistical report from them each year, in an effort to find additional ways to make improvements."

Visiting other properties and looking at them from a guest's viewpoint has also been another important contributor to their success. "The things we like—that make it easier or more comfortable for us as guests—we try to incorporate," she says. "Most of our extras are not original. For example, we saw the bedside TV switches and bathroom telephones—or the 'hot lines'—at a place in San Francisco."

Still another key factor in their success is their continuing efforts to give their guests the best service they can provide. "I've learned that anything that is good for the guest is a pain in the neck for the operator," says Smith. "A lot of owners fight this. But we believe—whether or not it is actually true—that the customer is always right. He pays the bills. We don't have any money without him.

"So we try to look at this thing from his point of view rather than ours. And since it's the conveniences that matter to him, we try to think of ways that will make it easier for him while he is here. Some of these services are quite expensive—courtesy buses taking guests to and from the airport, or downtown, or wherever they want to go; hiring several high school boys to show them their rooms and carry their bags for them; night maid service for studio rooms. But you have to look at your place as part of a total operation.

"A lot of people think you can retire into this business," says Smith. "Well, it's a hell of a thing to retire into. If you really want to keep your business up—and everything revolves around service—it requires a lot of hard work."

Taking an active part in trade associations has also been very important in the Smiths' success. "Just go to the facilities of a man who gets out to meetings and is active in motel organizations, and you can see the improvements he makes from year to year," he says.

The Smiths, and their business, have also profited greatly from the trade publications, he adds. "Tourist Court Journal and the others keep you alert. Many operators don't subscribe to them. They live out there in a world of their own. Before you know it, they're outdated or out of business, unless they have an unusual situation."

How has this constant striving to improve and this never-ceasing sensitivity to guest needs paid off for the Smiths and their business? For their part, it has resulted in an 83.3% annual occupancy—including a torrid 4-month average rate for the summer season of 97.1%—as well as a continually growing revenue picture. And from the guest's standpoint, they have long since come to know that they can always expect to find the very latest in accommodations and facilities at the Hitching Post Inn.

Decor is very important, Mrs. Smith points out, and you have to keep changing with the trends or you become dated. For one period—six to seven years—knotty pine was the vogue in the area. Then, everything went to stark modernism. As these changes occur, she adds, you have to tear out the old and replace it with the new.

Women, she says, read the house and garden magazines and are more color conscious than ever before. Rather than the "home-away-from-home" concept, they remember a motel and want to come back when it "has given them a lift" with its color and decor; when it has given them ideas for their homes. So, she pores over these magazines to keep in constant touch with the trends, incorporating their ideas where possible into her interiors.

In her new guest room color schemes, for example, she is adding the new olive greens and burnt oranges, with gold carpets, which are so popular now. "Also, darker colors are coming back for the walls," she adds. "We may go into this a little. However, we can use dark colors on spreads, drapes, carpets, lamps, etc., and get the same overall effect, while retaining the advantages of lighter walls."

Furniture stylings at the Hitching Post are the currently very popular Mediterranean and the ever-popular French Provencial. Carpets, bedspreads, pictures and drapery colors are varied from room to room to give each individuality.

"Decor can be changed somewhat merely by varying the style of hardware on the furnishings," she says. "And finish-wise, you are safe if you use a pretty grain of walnut. This gives you a rich feeling of elegance, and you can't go too far wrong."

All furnishings, with the exception of chairs—desks, bed headboards, nightstands, cabinets, vanity counters, etc.—are made on the premises by one of the maintenance men, a Latvian cabinetmaker. "He is an artist with Formica, and uses it everywhere," says Smith. "He never catches up with all the work we have. He also makes the restaurant furnishings—the tables, counters, bars and other pieces."

The Smiths are very careful about furniture purchases, since they are located in a region with a high elevation—6,200 feet. "We can't buy anything made on the West Coast," says Smith. "It isn't dried enough in the kilns and tends to dry out and crack at this altitude. We have experienced some losses in the past, learning this. We have to buy from the Carolinas, Michigan or New York."

Mattresses and boxsprings are by Englander. "Providing the best you can buy in these two items is the most important thing you can do in a commercial lodging facility," Mrs. Smith says emphatically. "To the guest, the true test of a motel's quality is made when he gets in bed."

Linens are percale by Dan River. And all bedspreads are from the deluxe lines of Bates and Cannon. "These are fairly costly," she points out. "But in the long run, they hold up much better. People sit on beds, and our spreads don't look crumpled or soiled as a result."

"Our pillows are Old Prejudice, made of goose down," she adds. "We also keep a few foam rubber pillows on hand for those who request them."

Draperies, including blackouts, are purchased locally on a bid basis. "We try to do as much business here in the community as we possibly can," she says. "The town has supported us wonderfully, and this is one way we can show our appreciation."

Casements are also used with the draperies. "Our guests seem to like them," she comments.

Room carpets are all-wool, primarily by Masland, while acrilon and other synthetics mostly by Barwick—are used in public areas and in the indoor corridor leading to them from the new 90-unit addition. "In this high altitude," says Mrs. Smith, "you can't use nylon because of the static electricity."

Mrs. Smith used to spend a great deal of money on expensive carpeting. "But," she says, "I found that $15-a-yard carpet burns just as easily as that which costs $8–$9 a yard. I would rather change carpets in the units more frequently, giving guests something new and fresh more often. The cheaper —but good—carpeting gives me that flexibility."

Walls are plaster-finished and painted an off white. "I also used to use a lot of very expensive wall coverings—$12–$15-a-roll grass cloth and other types," she says. "But we would come in at the end of the tourist season and find gouges here and there. And when you made repairs they didn't match the rest of the wall. This became quite costly.

"Now, we just use a good, flat paint. You can come in in a half-day's time and freshen up entire walls and rent the rooms the same night. You can keep them always looking new. I would rather put money into expensive draperies, bedspreads and things like that than into expensive wall coverings."

Dresser tops hold RCA or Zenith TV sets, locked into Formica swivel units made by the cabinetmaker. "I don't like wall-mounted TV racks," says Smith. "The sets look like they are going to fall off any minute."

Other room facilities include: generous mirrors by Syraco, New York; small refrigerators by Acme and Norcold; Muzak control units, which feature additional settings for local radio stations; and sleek, slim-line closets, which feature a long shelf and louvered folding doors.

Convenient vanity areas include Formica-covered counter-cabinets housing sleek, colorful double lavatories. Wrought-iron dividers extend from countertops to ceilings. "By using dividers and not closing the vanity off," says Smith, "you get the impression of a much larger room."

An additional lavatory, large enough to provide guests with plenty of room for their grooming devices, is found in the bathroom. Plumbing is by American-Standard and Crane.

Tub/shower combination feature shower curtains of heavy white duck, which are changed and cleaned daily in the motel's on-premises laundry. "We don't like the plastic curtains," says Smith. "They blow against you and are annoying. Ours are old-fashioned, but they eliminate this problem." "They are purchased from Valiant Products and Standard Textile on a bid basis," adds Mrs. Smith.

"We have one room with a glass sliding shower door," says Smith. "I've yet to see one of these in a motel that doesn't have a lot of filth down in the track. It takes a terrific amount of time to clean them, and the maids just won't do it. These units look good and cost more—they're different—but they are a very poor investment."

Bathroom walls are covered with tile all the way to the ceilings. "We've used every conceivable wall-covering material made for bathrooms, but none has stood up like tile," he says. "The fancy synthetic materials don't breathe, and the corners start to curl and the walls peel."

The Hitching Post was the first motel in the state to install air conditioning. Individual GE "Narrowline" units are used, installed flush with the outside of the buildings. Their protrusion to the inside of the rooms is covered via wall-finished encasement, which serves to break the wall and add to the appearance of the room. Maintenance has been minimal, and two extra units are kept on hand for emergencies.

Central water heat is provided. Both heat and cooling work off the same Robertshaw air-controlled room thermostats. Thus guests can have either at any time of the year. And to add further to their comfort, Smith has fixed windows so they can be opened for fresh air.

"Air-controlled thermostats cost about $40 extra per room to install," he adds. "But I recommend them over electric ones. There is less maintenance." These operate via air from the thermostats actuating dampers in the air-conditioning units through tubing connecting them.

"The most important thing you can do to insure peak efficiency and prevent problems with air-conditioners is to keep the filters clean," he says. "Most of the problems you have are the result of clogged, dirty filters." So he uses washable filters, and during the tourist season he has the maids to remove them and wash them out in the lavatories once a week, and change them at least every other week.

A special accommodations problem is created for a first-class operation in a small, but famous capital city like Cheyenne: that of providing suites, though they are rarely requested. As such, it is important to have rooms that can be rented individually each night. But, it is still necessary to have elaborate, multi-room suites for the many top celebrities—movie and TV stars, political dignitaries and others—who come to town from time to time.

The Smiths have worked out a very good solution to this problem. Eight-foot long connecting sliding doors have been installed in side walls of a series of units in the new addition, allowing the creation of two- to four-room suites, any of the series of which can be quickly converted into offices, meeting or press rooms, or whatever is called for.

Room-to-room soundproofing is achieved via the use of two layers of ⅝-inch sheetrock on each side of the walls. The first layer is nailed to 2x4 frames, while the second is pasted directly over this to avoid sound conduction. And a special effort is made to avoid backing up electrical plugs. This 2½ inches of solid matter, coupled with nearly four inches of dead air space between the walls, does the job as well as any other method, including the staggered stud-insulation one, he says.

The only two-story section, the 90-unit new building, is of brick-and-reinforced concrete construction. Slabs between the floors, along with carpeting, provide the necessary floor-to-ceiling soundproofing.

To reduce noise from the corridor, the maintenance men added rubber stripping around room doors prior to installation. Along the bottoms, they routed out a track and installed a spring-operated mechanism which pushes the rubber stripping tightly downward against the sills when the doors are closed.

Noel E. Pool, Salt Lake City, Utah, architect, has handled the design for new construction for the Hitching Post for the past 15–20 years. Final plans are drawn up by local architect, John Freed.

"Cleanliness is your greatest asset in a motel," says Mrs. Smith. And this facet of the operation is capably handled by Marilla Russell, a former maid and manager of the motel laundry. In constant contact with both Mrs. Smith and motel manager Delmar Peterson, she is given full rein over her department, handling all areas of responsibility, including hiring and firing of maids. "This prevents the problem of having two or three people running around telling the maids what to do, creating confusion," says Mrs. Smith.

Maids work a full eight-hour day, cleaning an average of 9½ rooms each. "We recently figured that it costs us $1.45 per room for maid service, not counting laundry and other costs," she says. "That's a little high, but we're getting very clean rooms. We are very meticulous, and demand that the rooms be kept spotless. The house keeper checks them every day, and the manager and I spot check them from time to time."

"We require our maids to vacuum room carpets every day," adds Smith. "Sometimes they get a little lax about this, but not very often. Our beds are detached from the wall-mounted headboards and are on rollers to make it easier for them to move them out of the way for this."

An added touch of cleanliness, as well as luxury, is provided by the use of three sheets on all beds—one on the mattress and one on each side of the blanket above it. "This keeps the blankets more sanitary," she says, "and they don't have to be cleaned as often."

"Spring housecleaning" is done in the winter when occupancy is at its lowest. Two or three rooms are taken out of service at a time, and the maids clean them completely. Men are hired to do nothing but shampoo carpets. Drapes and pillows are taken to the laundry to be tumbled. And bedspreads are sent out to be drycleaned.

An on-premises laundry, installed 15 years ago to allow key maid help to be retained during the off season, now runs full time the year around, handling cleaning for both the motel and restaurant. Equipment includes: a Huebsch Dryer, an American Compact Folder, a 200-pound Dyna Washer, two Troy Laundrites—one, a 40-pound model, and the other, an 80-pound one—an American Casadex extractor and washer, a Western extractor and a Chicago Flatwax.

Though they don't use no-iron linens, the Smiths feel they are saving time and money

by operating their own laundry. In addition to the convenience of having it when they want it, savings result from the volume handled and the avoidance of time-consuming counting in and counting out, necessary when a commercial laundry handles it. They also feel that they are saving 12c per bed, or 24c per room, since the third sheet used on beds can be thrown in at no extra overhead cost.

Continuous up-grading and adding to the facility have, of course, been a prime factor in the motel's long-term success. Plans and projects are always under way.

In underlining the importance of upgrading, Smith cites the experiences of the city's largest hotel. It went broke, he says, because while business was so good to it, guests were neglected. Air-conditioning and other conveniences they demanded weren't put in. "They found us," he says, "and we took care of them. The process didn't take place overnight. It took 10–12 years. Now, we also have the Lions and Kiwanis Clubs, which used to meet at the hotel."

Numerous projects have highlighted never-ending refurbishing programs. For example, while they were launching their new restaurant right after World War II, the Smiths realized kitchens were no longer necessary in rooms. They took advantage of this situation by gutting the units a few at a time, and starting from scratch to enlarge them into the former kitchen areas.

Four years ago, while adding a 30-unit wing, roofs of existing buildings were enlarged and new cedar-shake shingles added, greatly enhancing their appearance. The new wing was enlarged an additional 30 units two years ago, and another 30 last year. (Note that we didn't say a final 30; nothing has remained final at the Hitching Post!—Eds.)

Rooms themselves are remodeled 10 at a time. Everything is normally ripped out except the 2x4's. "They get new doors—everything," says Smith.

While adding the new wings and connecting them with the public areas, it was decided to include: an inside corridor—the first for a motel in the state—to protect guests from inclement weather; an indoor swimming pool; and a health club, with saunas and exercise rooms (complete with bicycles, etc.) for both men and women.

One project in the planning stage is the addition of carpeting at poolside. He is reluctant to use indoor/outdoor carpeting, stating that all he has seen gets stained. He is considering Astro-Turf, which, he says, costs $12 per yard.

Color TV was also added a few sets at a time, until now it is found in all of the rooms. "Guests are not directly asking for it," he says. "But it brings them in. They just expect it."

Sources of guests are observed very carefully, both from comments at the desk and from those on comment slips. "Our four main sources are: the highway signs, AAA, Best Western and appearance," he says.

Primary promotional efforts are made via an attractive, colorful airport display, a four-color brochure, an ad in the *AAA Tour Book* and highway signs. "In earlier days, we used to put so much on our signs," he recalls. "It took us 15 years to get away from that—it's a waste. Who can read it all driving by at today's speeds? And why put TV on it? The guest wouldn't expect you not to have it.

About 80% of the business in summertime is handled via credit cards and travelers checks. "We have to send out for change to operate with, he says. "Our business has become all paper work."

In addition to honoring the big three credit cards, two bank cards and two oil cards, he also issues one of his own. These are issued to regulars after checking their credit on the office ledger.

The big advantage of credit card business, he says, is that people spend more freely with them than they would "if they had to reach in their pockets for hard cash. You're giving away 4% overall," he adds, "but you're bringing in much more money. You have to look at the overall picture."

Today, the operation has 122 employees, with that figure hiked an additional 25–30 at the height of the season. More are employed in the restaurant phase than in the motel.

"Help is a catastrophe here like everywhere else," he sighs. "The housekeeper is battling the problem every day. She keeps two girls busy just breaking in new maids. Some will work three or four months, and then find an excuse not to show up so they can draw unemployment."

In an effort to encourage employees on a long-term basis, an incentive program has been set up. Department heads get end-of-the-year bonuses. Those who have been with the motel three or four years get Blue Cross and Blue Shield insurance policies, compliments of the management. "Sometimes you wonder if these things are doing any good," he says. "But I think they are necessary."

Despite the bigness of the operation, the Smiths make a special effort to provide a personal, friendly touch. "We get more comments on the homey atmosphere here than on anything else," he says.

"We train our people to be friendly at the desk, and to learn names and try to learn a few of the idiosyncracies of our regular guests," adds Mrs. Smith. "If they like special facilities—bedboards, foam rubber pillows, etc.—we prepare their rooms this way and have them ready when they arrive."

Every guest who attends a convention at the Hitching Post finds waiting for him on his dresser when he arrives an "Eye Opener." This is an attractive cardboard pack with handle, imprinted with the motel's trademark. It contains two or three liquors in small bottles of the size served to passengers on commercial airline flights, plus a package of nuts. A handwritten note welcoming him to the motel, signed personally by Smith, is inserted in its side.

For parties of six or more, the names of each attendant are printed on match covers which are placed on the tables when they are set up. The printing is done in a matter of minutes by the package liquor store operator with a small printing machine.

Fresh flower centerpieces are placed on tables for all parties, no matter what the season. "We're sort of a special problem to the florists at times," says Mrs. Smith.

And at Christmas time, the motel and public areas become a winter wonderland. About $15,000 worth of decorations, including 100,000 miniature Italian lights, are now used. And some $2,000-$3,000 worth are added to them each year. "In one of the large public rooms," says Mrs. Smith, "we have as many as six trees, each displaying about 5,000 lights. People come from all over the state to see our decorations."

The Smiths have been by-passed on one side, but this doesn't overly excite them. "With the reputation we've built, people will still come here," Smith says confidently. "When we are totally by-passed, it will have some effect on breakfast and some of our tourist lunch sales. But if we lose in one area, we just have to work a little harder somewhere else."

And that should provide no hill for "steppers" like the Harry Smiths. They've been working hard for four decades now. That's why they appear to be so darn lucky as they begin the fifth one.

JOHN GRAVES, OKLAHOMAN

Mr. BELLMON. Mr. President, as an Oklahoman I have a special feeling of shock and sorrow at the passing of John Graves.

John, who was from Clinton, Okla., was well known to members of my office staff. He was in our office only yesterday discussing some legislative matters.

He performed his job as assistant secretary to the majority in a calm, efficient manner, and he impressed many as a dedicated employee of the Senate prior to his recent retirement because of his illness.

My heartfelt sympathies are with his loved ones, and I share with other Senators, on both sides of the aisle, the sadness that accompanies the loss of this former employee.

SENATOR PERCY SPEAKS TO YOUTH ABOUT SOUTHEAST ASIA WAR

Mr. COOPER. Mr. President, the senior Senator from Illinois (Mr. PERCY) delivered an eloquent statement on May 8 concerning the crisis which faces this country because of the war in Southeast Asia. It is a very personal statement in which Senator PERCY outlines what he intends to do to meet the crisis faced by this country. Addressing the youth of the country, Senator PERCY concluded his speech with this plea:

So I would say to you in closing: Do not despair of us, do not abandon your country and its future in this crucial hour. Continue to prod us into action, to give us the benefit of your unique appreciation of this nation's moral obligations. Dissent vigorously—but peaceably and within the broad parameters of our constitution, and I pledge to you that we will respond.

I ask unanimous consent that Senator PERCY's remarks be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR CHARLES H. PERCY
MAY 8, 1970

You have come here today because you are angry—over an undeclared and tragic war in Southeast Asia that has been escalated sharply in the past 10 days, and over the inexplicable and indefensible killing and wounding of young people last Monday on the campus of Kent State University.

I share your anger. I opposed every escalation of the debilitating conflict in Vietnam during Democratic Administrations, and I would therefore, oppose just as vigorously any expansion of the war into Cambodia. I had thought we were on the road to withdrawal from a war unrelated to our own vital interests and national security. Now I am astonished and appalled to find that it has been widened into another country without Congressional approval.

But I believe that the abrupt turnabout in Southeast Asia—however misguided—and the shooting by American troops of American students exercising a constitutional right—repugnant as it may be to our national conscience—do not entirely account for your presence here today. You are as aware as I am, I think, that my generation has almost completely lost contact with yours, and that this may be our last chance for reconciliation.

As you pour into Washington this weekend, representative of millions of students across the land, I fear that you are on the verge of total alienation. This nation may be about to lose the allegiance of its young people, the millions of Americans between 18 and 30. It is a terrifying thought.

It does no good today to deplore once more the loss of our lives, our treasure and our international reputation in South Asia. It is fruitless to lament again the plight of the poor, the hungry, the disenfranchised, those deprived of their civil rights. It is not enough to speak out against the inflammatory rhetoric, much of it emanating from the highest levels of government, which has driven moderates into the radical camp, transformed progressives into revolutionaries.

You have heard enough words. What you want is action, evidence that your voices have the power to shape the policies of the national government.

Today I offer you some specific promises:

First, I promise that I will work to redefine and clarify the war-making powers of the President and the Congress. We in Congress have the constitutional power to declare war, but it is necessary to go back through six Administrations—to World War II in the Roosevelt Administration—to find a war that has been declared by Congress.

Since the end of that declared war the United States has lost scores of thousands of men killed and wounded and upwards of 200 billions of dollars in undeclared conflicts, skirmishes, police actions—pick your own term—in Korea, the Dominican Republic and Southeast Asia. And there are no statistics available on the clandestine adventures—in Cuba, Guatemala, the Congo, Indonesia.

Second, I will introduce a resolution stating that it is the sense of the Senate that no American forces—land, sea or air—may be sent into combat without the express consent of the Congress, except in response to a direct and obvious attack.

Third, I have decided to co-sponsor and will work for enactment of a proposal calling for the repeal of the Gulf of Tonkin Resolution, the shaky instrument that has been used to justify countless escalations of a dreadful war.

Fourth, I have decided to co-sponsor and work for enactment of an amendment that would cut off funds for the Cambodian incursion.

Fifth, in order to give impetus to the legitimate aspirations of young people to play a forceful role in the formulation of national policy I am today urging the presidents of all American colleges and universities to suspend classes for at least one week prior to next fall's congressional elections to permit the nation's millions of college students to actively campaign for the candidates who will best represent their views. Coupled with this massive demonstration of political action we must press to give the franchise to 18 year olds. If it takes a constitutional amendment, so be it and let us get on with it. Young men and women must participate directly in the electoral process, making our officials and institutions more responsive.

Now that I have outlined my proposals, I would like to ask something of you. I urge you with all the force I can summon to shun and help prevent the violence that will only retard progress toward our common goals.

Violence is a form of self-indulgence, providing momentary release at the expense of the long-range aspirations we share. Violence: arson, damage to life and property—should be condemned and treated as the criminal acts they are, whether it be the wanton destruction of a scholar's life work or the death of innocent student by-standers. It can only lead to further polarization of this already battered but still great nation, and destroy our opportunity to represent your views effectively.

I do not say that you have not been provoked—verbally and physically—by a generation that too frequently mistakes your idealism for intellectual arrogance and ignores your laudable aims while concentrating on superficial matters, such as hair length and beads. But I do know that more violence will only turn the generation gap into an unbridgeable chasm.

If you feel today, in an almost unprecedentedly depressing week in our national life, as if all of your protests have been unavailing, I wish to disagree with you. I speak as a member of one institution, the United States Senate, and I can tell you that you are being heard. The message is loud and clear, and I hope you will not allow it to be muted by the tragic events of the past several days. Moreover, I believe that the President has heard and is listening now. I believe that he wants to end this war. I believe that the ending will be hastened.

In some measure, your dissent has been responsible for a formidable number of actions we have taken. With your support, we have begun to give military appropriations the scrutiny they deserve, to weigh the need for advanced military hardware against pressing human needs and cut billions from the defense budget without compromising our national security. The Senate also has turned back an attempt to emasculate the Voting Rights Act of 1965 and succeed in having it renewed. It has greatly expanded programs to feed the hungry, another high national priority. It has just rejected a second Supreme Court nominee, one who exhibited lack of sensitivity to the aspirations of all Americans for full membership in American society.

I do not mean to dwell on our accomplishments, for so much remains undone, but only to offer you hope. I see in Secretary Hickel's courageous letter to the President a growing understanding in the Executive Branch that this Administration will never win your support through benign neglect. In the appointment of Judge Blackmun to the Supreme Court, I see a reassuring sign that the court will regain the integrity and public trust it must have.

I state unequivocally that there is hope. This remains the greatest form of government devised by man. It was forged in a revolution and the fervor of that revolution has nourished it over two centuries. It can move it again, but only if the great energies are used with restraint, and genuine care for our future. A bloodbath would only restore the tryanny that we have rejected since the first days of the Republic.

So I would say to you in closing: Do not despair of us, do not abandon your country and its future in this crucial hour. Continue to prod us into action, to give us the benefit of your unique appreciation of this nation's moral obligations. Dissent vigorously—but peaceably and within the broad parameters of our constitution, and I pledge to you that we will respond.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, which the clerk will state.

The BILL CLERK. An act (H.R. 15628) to amend the Foreign Military Sales Act.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. HOLLAND. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HOLLAND. What is the pending question?

The PRESIDING OFFICER. The pending question is on the last committee amendment on military sales.

Mr. HOLLAND. Mr. President, continuing my inquiry, I understood at the time of our adjournment yesterday that the distinguished manager of the bill, the Senator from Idaho (Mr. CHURCH) had just offered a further amendment which had become the pending business. Am I correct or incorrect in that understanding?

The PRESIDING OFFICER (Mr. SPONG). The Chair is advised that the Senator from Idaho withdrew that amendment, or those amendments.

Mr. HOLLAND. I thank the Presiding Officer.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Mississippi (Mr. STENNIS) for a period not to exceed 1 hour.

Mr. STENNIS. Mr. President, I understand that the Senator from Ohio (Mr. YOUNG) had a matter with which he wished to proceed briefly as in the morning hour.

Mr. YOUNG of Ohio. I thank the Sentor from Mississippi.

Mr. STENNIS. Just a moment; we will have to see about it. I would be glad to yield to the Senator now, if we can work it out under the rules of the Senate, but we are in the position of having before us the pending business, which requires the application of the rule of germaneness.

Mr. YOUNG of Ohio. May I say to the Senator from Mississippi, I was really waiting in the Chamber here to speak for about 5 minutes in the morning hour, but I was called out by the majority leader to discuss a matter with him. I can speak later, or if the Senator will yield to me for 5 minutes, without taking any of his time, I can speak now.

Mr. STENNIS. The Senator from West Virginia has certain responsibilities here, Mr. President; I yield to him to explain the situation.

Mr. BYRD of West Virginia. Mr. President, I appreciate the thoughtfulness of the Senator from Mississippi, but I would be bound to object to any transaction of routine morning business, during the next 3 hours, now that the unfinished business has been laid before the Senate.

Mr. YOUNG of Ohio. All right, I can wait.

Mr. BYRD of West Virginia. I say this hoping that the Senator from Ohio (Mr. YOUNG) will appreciate the situation I am in. May I say, incidentally, that I came to the Chamber with some morning business of my own that I wanted to discuss, but now I, too, must abide by the rule until the 3 hours have elapsed.

Mr. YOUNG of Ohio. I will abide by the rule also, and present my matter later.

Mr. BYRD of West Virginia. Mr. President, I thank the Senator for his usual understanding and forbearance.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I ask unanimous consent that I may ask for

a quorum call without losing my right to the floor—and I add that I do not expect this to be a live quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, my remarks today will be addressed, of course, to the pending amendment to the pending bill, and specifically to the amendment proposing restrictions on the President of the United States in his conduct of the very unfortunate war in South Vietnam.

I do not propose to attempt to review the entire war. I was opposed to our going in there with military power, but I have since supported it without any exception. I will support the men, without any restriction whatever, as long as they are called on to fight. But I am very deeply concerned that we get out as soon as we possibly can.

Also, I wish to make clear that my position all along has been—and is now—that I do not favor our going into Cambodia, or extending this war for Cambodia's protection. They may deserve it, but I do not think we can extend it that way. I am not in favor of our trying to sustain and protect a government there. I think that would involve us in Cambodia's war, and it is already involved in one to a degree. I do not favor—and I have let this be known all the time—furnishing any appreciable American arms to Cambodia, if for no other reason than that means sending trainers and advisers, and that means involvement.

However, we are now technically on Cambodian soil—and this is something that I have favored before now—for the primary purpose of destroying the ammunition dumps, the military supplies, the food supplies, the weapons, and the manpower that have a large role in the war in South Vietnam. That area is as much a part of the battlefield of South Vietnam as a man's nose is a part of his face. For years we have had this extraordinary situation where, in many places, our adversaries—and they are exceptionally tough fighters in this type of war—could take refuge in Cambodia for safety, for replenishment, for rest. The same spots were being used for storage of the supplies of the type I have mentioned. They could fight us, and have fought us, over and over in Vietnam, inflicting severe damage on us, and great loss of our manpower, and then run away and regroup and fight another day, often over the same territory, again and again and again.

According to the common sense and judgment I have, we cannot win—we cannot even bring to a conclusion—the war in a successful way if we have to conduct the war under those terms.

When I speak about the President in this speech, I am not so much talking about Mr. Nixon as I am about the power of a President and his duties and responsibilities under the Constitution. Frankly I am glad that we have a President who had the courage to take this step, if his judgment was that he should take it. I think that thus far he has conducted himself about it in a very fine way, and in a way that already has proved to be very effective and very helpful. I want to read briefly the main points from a statement that I read yesterday, and this is the most recent one I can get, as to the losses of our enemies there.

We have already captured and taken over and control, or have destroyed, in these sanctuaries, enough equipment to supply 20 enemy battalions. This includes more than 7,000 rifles, 1,000 crew-served weapons—meaning mortars and machineguns—along with more than 8 million rounds of small arms ammunition, which would have supplied 20 battalions for upward of a thousand battalion-sized attacks.

I do not recall at this time how many men are in their battalions, but theirs are smaller than ours. This is calculated on the basis of 20 battalions, and this would supply them to make about a thousand battalion-sized attacks of the kind they have been making on us.

Food supplies located so far comprise almost 5 million pounds of rice, which we know is the basic food there; and that is enough rice to feed the entire enemy forces now in the III and IV Corps area of South Vietnam for 5 months.

Twenty-two thousand mortars and rocket rounds have been found, an amount large enough to supply about 3,000 fire attacks in South Vietnam of the same intensity that the enemy has been conducting in recent weeks. More than 5,400 of the enemy have been killed in Cambodia and over 1,400 captured. If early estimates of about 40,000 enemy troops in Cambodia are correct, 17 percent of their forces in Cambodia have already been destroyed.

Mr. President, I want to make sure that it is very clear that I have nothing except the highest regard for the motives and intentions of those who propose and support the pending amendment. I make no attack on them. It is unfortunate that some of them have been called by name in an unfavorable way. That is very uncalled for and unfortunate. I do not believe it represents the sentiments of the organizations they represent.

Now, Mr. President, this does involve very strong opinions as to who is correct in this very involved and far-reaching issue.

I do not think there is any more important question, especially in world affairs, than that concerning the power of the President of the United States, his constitutional duties, his prerogatives, and his authority.

One phase of it which has not been understood or discussed very frequently is the power and the duties of the President as Commander in Chief. That is just not an idle term. Those who wrote the Constitution could not at first agree how the Commander in Chief should be chosen. They finally wrote into the Constitution that the President of the United States should be the Commander in Chief. There was strong objection to that at the time, but it was adopted, and it has worked very well.

The President of the United States is the only Commander in Chief we have. He must carry out that role. It is a role which is known all over the world by, adversary and friend alike. They know that he is our Commander in Chief.

That is why it is so serious to think about passing legislation that would tie his hands or limit him so that he could not act as a military Chief Commander until he had come down here to Congress and sought a law and obtained its passage. Everyone knows what our enemies would do in the meantime. We know that they would be given enough notice so that they could change their plans, get away, change their policy, or do almost anything else they wanted to do.

Mr. President, the question we are debating involves strong and emotional issues of what is right and wrong; but it involves also significant questions of the power of the President, as Commander in Chief, and his constitutional prerogatives and authority.

At the threshold of this issue is one basic and fundamental fact which must be clearly recognized and understood; otherwise confusion and misunderstanding will surely result. That fact is that by the action we took in Cambodia, we have not—I repeat, we have not—assumed or undertaken any new national commitment whatsover. We have not committed ourselves to military support for the Cambodian Government. Nor have we promised shipments of American arms or committed ourselves to send military advisers. Mr. President, I am opposed to all of those steps. We have acted pursuant to and entirely within the context of an existing commitment. Within that framework, we have taken a military step, a campaign and a series of actions designed and intended to better our position in the war in South Vietnam and to reduce American and allied casualties. This all-important fact should be kept in mind as the debate continues.

I am not an expert on military matters and how to fight a war, but I have been close to the subject for some time. I believe that withdrawal of our troops will not be successful unless steps like that are taken. I do not believe that we can permit the sanctuaries to be left with immunity.

Personally, I think that if we do tie the hands of our Commander in Chief, so that he would have to get a law passed in order to go forward, that will be like sending a hot message to our enemies, "Come on back. Start building up as much as you please again. We are not going to come back so far as U.S. forces are concerned." Thus, they will be back for certain, and back up close to the line, too.

If the pending amendment is adopted, that is what will happen.

We are now attempting to legislate with respect to a battle which is actually being fought now—today—near the Cambodian-South Vietnamese border. By the assurances which have been given us by our highest officials, from the President on down, we know that the present action is limited in scope, limited in purpose, limited in geography, limited in size, and limited in time. I submit to all Senators that, under the cir-

cumstances, there is no precedent in all history for Congress to outline, limit, or define the perimeter of a battlefield here in the halls of the Congress. I believe this is the first time it has ever been undertaken. That is exactly what we will be trying to do, in this Chamber, to form the perimeter of a battlefield, where the battle is already in progress and men are dying today—I repeat, today.

If we are going to do that, we should draw every one of those men out immediately, not only from Cambodia but also from Vietnam. We cannot have it both ways at once. That is clear to me.

I believe that as this sinks into the minds of the American people, concerned as they are and vexed as they are about this war, their thoughts will be, "Do not stay the hands of our Commander in Chief. If we are going to stay there at all, do not put bonds on him; instead come out altogether."

I know of no one in this body who wants to increase the hazards to our young men in Vietnam and Cambodia. Of course not. It is a matter of judgment. I am glad that we have a President who had the courage to act on the facts as he saw them.

If we adopt this amendment, it would be unthinkable and an affront to reason and to the President.

Mr. President, I am not thinking in terms of President Nixon. I am thinking in terms of a constitutional American Commander in Chief, a constitutional Chief Executive who has been chosen by the people and who is known throughout the world as our Commander in Chief, who know that he is the only American who can carry out that role. We cannot put in a substitute for Mr. Nixon just because we do not like his judgment.

Mr. COOPER. Mr. President, will the Senator from Mississippi yield at that point, or would he prefer to finish his remarks first?

The PRESIDING OFFICER (Mr. EAGLETON). Does the Senator yield?

Mr. STENNIS. My remarks are not long. I should like to finish them, and then I will be happy to yield to the Senator from Kentucky.

I want to make it clear that I think Congress has the power—I am not arguing that Congress does not have the power—to withhold an appropriation. We can just vote nay on an appropriation.

My position is that when a man is Commander in Chief, as long as he is exercising a judgment that is within reason—that would not apply in a case of a man that happened to be insane—as Commander in Chief, he is the only one that we have to make decisions. We have no one else. It is a matter of either or nothing, as I see it, in backing him up in these unusual and extraordinary conditions.

I know fairly well about the present President's feelings of responsibility in this war as a whole. I do not think it is necessary to say this, but I will say it anyway. If I did not feel that the President is absolutely, down-to-earth honest in trying to use his best judgment, based on the best advice he can find, and that he is dedicated in this matter regardless of politics—it was a long chance that he took politically—and if I was not satisfied with those things, then I would be driven to some other conclusion and believe that something else had to be done.

I am impressed with his attitude in the matter. I am impressed with his judgment. And I give some value to his experience in handling these difficult questions and decisions.

I say that not to build up the President. He does not need any building up. It is something that I decided ought to be said to the American people. They are being told a lot of things about this situation, some of which are misleading.

As I say, I am glad that he had the will to move against these sanctuaries. Under these facts, I concur in his judgment.

The President never told me this, but I have been convinced for some time that to make the Vietnamization and the withdrawal program work, we must not give immunity to these sanctuaries. Therefore, I think action against them was necessary.

As a practical matter, the Congress, acting through its control of the purse strings, may have the power to hamstring and inhibit the President in directing military operations which he deems necessary for the safety of our ground forces and from exercising the full range of his powers as Commander in Chief.

Simply because we have this power does not, however, make its exercise either just or wise. As a matter of fact, I know of no instance in recorded history when any Congress has even seriously considered restricting the power to the extent that this resolution would when American fighting men are engaged in battle on foreign soil and are actually on military missions, putting their very lives in jeopardy while this debate is going on.

I remember as a youngster the debates in this Chamber following World War I. Woodrow Wilson was then President. A majority of the Members of Congress were involved in this effort, and I think it stirred the Nation. However, no one was then being sent forth to die. The battles and the shooting were over, no men were dying on the battlefields. We have altogether a different situation today.

I find it difficult to believe that we really want to convert the Senate of the United States into a war room and to try to direct battle, prescribe tactics, control strategy, draw boundaries, and otherwise to usurp the responsibilities and the prerogatives of the President and our military leaders. This is not a proper function of the Congress; and it should not be. And I do not believe that it ever will be.

We can be certain if we pass this amendment and advertise to the world that, as far as American troops are concerned, the Vietcong and the Northvietnamese can reoccupy and roam the sanctuaries of Cambodia at will and without fear of attack, there will be unrestrained jubilation in Moscow, Peking, Hanoi, and every other Communist capital in the world.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. STENNIS. Mr. President, I have requested that I be permitted to finish my prepared remarks.

Mr. FULBRIGHT. I am sorry.

Mr. STENNIS. Mr. President, we can also be sure that the negotiating power of the President of the United States, as far as his ability to bring this war to an end by negotiation will be reduced to nothing—absolutely nothing.

I heard the astronauts describe how the gages went down to zero when they had the explosion. The astronauts realized what that meant concerning their chances of getting back or surviving. And I think that the passage of the pending amendment will restrict the power of the President as a negotiator to that same level—zero.

The question is asked repeatedly why this amendment should not be adopted if the plan is that in the future the South Vietnamese only will be utilized to clean out the sanctuary areas. This is a legitimate question and there are several answers to it. In the first place, the exact meaning of the amendment with reference to the use of South Vietnamese troops in Cambodia is unclear—particularly if they are receiving financial, logistic, and materiel support from the United States. Second, it would tie our hands in a wide variety of possible emergency situations which might arise. For example, if a South Vietnamese force of several thousand, or several hundred, should make a raid into the sanctuary areas of Cambodia and should be trapped or threatened to be overrun by enemy troops, this amendment would tie our hands to the extent that we would not be able to send an American relief force to their assistance even though they might be just a few miles over the Cambodian border from South Vietnam. Obviously, such a situation would be untenable and I do not believe the sponsors of this amendment would even sanction such a development.

I think that if we are going to stay in South Vietnam and try to bring this war to a conclusion, we ought not to publicly announce our intentions and carve into the written law of the land this limitation on the powers of the President of the United States as Commander in Chief. Instead of protecting our men, prohibiting the President from sending them back if he thinks it necessary will have the opposite effect.

Going back to the constitutional question involved, I do not know of any sound, legal basis or any real and valid precedent for that which is being proposed here. Under article 2 of the Constitution the President is made Commander in Chief of the Armed Forces. As early as *Fleming* v. *Page*, 50 U.S. 602, 614 (1850), the U.S. Supreme Court held that the responsibility of the President under article 2 is "to direct the movement of the naval and military forces placed by law at his command and to employ them in the manner he may deem most effectual.

As the President indicated in his speech on April 30, the activity in Cambodia is designed to clean out major North Vietnam and Vietcong occupied sanctuaries which for many years have served as bases for attack on American and South Vietnamese forces in South Vietnam. The

President indicated that this exercise of this responsibility as Commander in Chief of the Armed Forces, was considered necessary to defend the security of American men, which, in turn, was essential to accomplish his basic purpose of assuring the continuing success of the withdrawal program, to end the war in Vietnam, to reduce American casualties, and to win a just peace. It seems to me that we would be taking a rather rash and reckless step to enact an ironclad statute which would absolutely deny him the funds to do what he thinks is necessary along these lines.

The broad and sweeping powers of the President as Commander in Chief have not always demanded a declaration of war by the Congress. There are many instances where this was not done. We fought an undeclared war with France in our early days; we fought an undeclared war with the Barbary pirates in the early days; Marines have landed on foreign shores many times; we went into Korea under President Truman's directions; under President Eisenhower we landed in Lebanon; and there are many other instances which could be cited where similar actions were taken without a declaration of war. There is a great deal of precedent to support the Commander in Chief in taking the action President Nixon took in making the thrust into Cambodia.

As far as I can ascertain, the nearest thing to a precedent along these lines was the adoption of the amendment to the defense appropriation bill last year—which now appears as section 643—providing that—

> In line with the expressed intention of the President of the United States, none of the funds appropriated by this Act shall be used to finance the introduction of American ground troops into Laos or Thailand.

Aside from the fact that this is far less restrictive than the proposed amendment, at that time the American troops were not on the mission which the statute was designed to prevent and were not engaged in the prohibited combat. Incidentally, I opposed that amendment and voted against it. But there was no one being sent into battle, no battle was going on, men were not called upon to die in those battles, and that is the big distinction, as a practical matter, from the conditions today.

While the Cooper-Church amendment and its general thrust is somewhat similar to the President's expressed intention concerning our limited role in Cambodia and the completion of our operations by July 1, there are certain elements of it which raise serious questions and which could affect adversely the President's policy on Vietnamization and the steady withdrawal of American combat forces from Vietnam. Therefore, I think that it would be wise to look at the provisions of the amendment.

Before I leave that point, I wish to say with respect to the subject of declarations of war, I remember standing within a few feet of where I am now standing when word came that President Truman had sent our Armed Forces into Korea. I realized very clearly then that that act, within itself, even though I supported the concept of the United Nations, was a terrific precedent and that it might plague us. But I also noted that, for many years after I came here, the idea of the issuance of a declaration of war by Congress was laughed at and scoffed at as being old-fashioned and out of the times; why, it was ridiculous. Some of you remember that. I can give names and I can almost give dates, if you want me to.

Most of the thought behind all of these alliances that we signed up for, whereby we tried to underwrite everything all over the world, was based partly on the idea that declarations of war were old-fashioned and out of date. There is very much concern about it now. I am glad there is. I hope we can bridge that gap as a general proposition, but now it is too late with respect to South Vietnam. We stood here and sent all of those men over there to fight and now we talk about a declaration of war, and some say, "We ought to declare war." We are now on the way out. It is too late in this war. We are on the way out; we are withdrawing. We are trying to cover our withdrawal and make it safe for ourselves and our allies.

Paragraph one of the amendment clearly would prohibit the presence of any U.S. forces in Cambodia, whether as advisers, combat troops, or otherwise.

Paragraph two would prohibit payment of the compensation or allowances, directly or indirectly, of any U.S. personnel in Cambodia furnishing military instruction to the Cambodian forces or engaging in any combat activity in support of Cambodia forces.

Paragraph three would prohibit our entering into any contract or agreement to provide military instruction in Cambodia "or to provide persons to engage in any combat activity in support of Cambodian forces." This could be construed to prevent our support, financial and otherwise, of any South Vietnamese activity in providing instruction to the Cambodians or of combat activity by the South Vietnamese in support of Cambodian forces. Since all operations of the South Vietnamese military forces are supported by us with finances, logistics, and materiel, it would appear that this portion of the amendment might even prevent the armed forces of South Vietnam from making forays against the sanctuary areas, thus assuring that the enemy could reoccupy these areas without any molestation at all.

I say that is a possible interpretation. If this proposal is going to be passed that language should be clarified.

Paragraph four raises a very serious problem, since it would deny funds for funding any combat activity in the air above Cambodia in support of Cambodian forces. In interdicting trails and supply routes it will be impossible to tell whether the air combat activity and the interdiction was in support of the South Vietnamese forces, the U.S. forces, or Cambodian forces. That is the reason I thought we should have defeated the amendment last year. Obviously, any interdiction of enemy supplies as they move down the trail and into the pipeline would be of benefit to all of the enemies of the North Vietnamese and the Vietcong—the United States, South Vietnam and Cambodia.

Thus, even if one should agree with the general purpose of the amendment, it would appear that the language should be modified so as to bring about clarification to make its purpose and application clear beyond doubt. Certainly the Senate should not take any action which should in any way diminish the power of the President to act for the protection of the United States and its troops and, therefore, at the very least, this amendment should be revised to make clear that the President has the right to take any necessary action in emergency situations to protect the lives of American troops remaining within the Republic of Vietnam.

I think that it is very important that we stop and consider carefully what we are now asked to do. There is a serious question here of the separation of powers, and a serious question of whether or not it is either prudent, necessary, or wise to place such limits and restrictions on our military operations along the South Vietnamese-Cambodian border. The prohibitions we are asked to legislate may very well be of great aid and assistance to the enemy and could well result in added American casualties.

At the very least the adoption of this amendment will telegraph our plans to the enemy and let him know that, as far as American troops are concerned, he can operate in the Cambodian sanctuary areas with immunity. In addition, it will put the President in a legal straitjacket with respect to military operations directed against enemy forces in such sanctuaries and would tie his hands to an extent which to me is unthinkable.

I do not totally discount the South Vietnamese troops, but I have been hearing numerous optimistic reports about their improvement for many years. However, I believe by now there is improvement, and very substantial improvement. It is enough to give hope to me that, before too long, they may have the military strength to stand on their own. But not now. This Cambodian action is going to be a good test for them, all right. Not now—it is too early. We may have to continue to raid these sanctuaries, and it is not necessary to publish the fact that we will not. If we do they will know that they are taking no chances.

If we do adopt this amendment, the result will be, I believe, that the North Vietnamese forces will move back to the base areas as rapidly as possible and use them once again as launching pads for attacks against United States and South Vietnamese forces within South Vietnam. Guerrilla activities based in Cambodia against South Vietnam sooner or later will be stepped up and the main forces will be again concentrated in these areas in preparation for possible massive attacks into South Vietnam. Cambodia will once again become a vast enemy staging area and the springboard for attacks on South Vietnam along 600 miles of frontier; it will be a refuge where enemy troops can return from combat without fear of retaliation. North Vietnamese

men and supplies could then be poured into Cambodia, not only jeopardizing the lives of our men but the Armed Forces and people of South Vietnam as well.

That would just be encouraging them. We would be encouraging those conditions by putting here, in the cold stone of written, published law, our intention to cut the Commander in Chief off from this avenue of action.

Therefore, I would think that the passage of the resolution in its present form would inevitably result in increased American casualties. The President and Secretary of State have made it clear that the action we have taken has not been for the purpose of expanding the war in Cambodia, or for increasing our commitments, but for the purpose of ending the war in Vietnam and winning the just peace we all desire. I do not think that the Senate of the United States should stand in the way of the President taking that action which is necessary to provide for the defense of American forces and for success of the Vietnamization program.

I believe that is the issue. I believe the choice is to let the President go on with this program or just pull them all out and abandon South Vietnam. There may be a few Senators that would propose that we abandon that mission now. I believe, however, they would be very few.

I think that we should realize that the mission against Cambodia is planned to be short and brief for a specific purpose. The President has assured us that all American troops will be withdrawn by July 1, and he has also assured us that we have no commitment whatsoever to go to the aid of or to the support or defend the Cambodian Government. The Secretary of State reemphasized this on May 13.

Someone said to me, "Well, this amendment just takes him at his word" No, it does not. It repudiates his word. It refuses to take his word. It kicks him right in the face. It says, "No, we won't take your word. We are going to box you in here, in the cold letter of the law. You are not to make another move in this direction without coming in here and making a request, and then we will debate it. Or take it to the House, and it may come from there to us, and it will come back here and we will debate it in the normal process."

What is the enemy going to be doing in the meantime? They are already prepared. They already have this long notice. We would have then the saddest of all the words: "Too late. Too late."

I say the choice we have here is to go on with the Vietnamization program and withdrawal—which the President is doing well so far—or stripping him of his authority to carry it out, or pulling out of South Vietnam entirely.

We all know that since late 1965 Cambodia had played a major role in Hanoi's strategy for taking over South Vietnam. The Vietnamese Communists have made use of its territory for tactical sanctuary, for base areas, storage depots, for infiltration of personnel, and for shipment of supplies. They have also procured arms, food, and other supplies from Cambodian sources.

The sanctuaries have played a key role in Hanoi's response to the Vietnamization and pacification programs. Because of their existence, especially the sanctuaries in southern Cambodia along the III and IV Corps frontiers, Hanoi has always been able to mass hostile forces in close proximity to major South Vietnamese population concentrations. Not only did this enable the enemy to make hit-and-run raids across the border; it enabled him to pose a continuing threat to South Vietnamese internal security that the progress of pacification and Vietnamization could not entirely irradicate.

The violation of Cambodia's neutrality by the North Vietnamese and the Vietcong over a period of many years, and the inability of Cambodia to expel them by force or otherwise give us the right, under international law, and under basic considerations of self-defense, to strike the enemy in his sanctuaries on the soil of the unwilling and reluctant host nation.

I have no questions about that. That is just common, crossroads commonsense. If my neighbor lets someone use his backyard as an arsenal to make attacks on my family, then I have to attack that arsenal regardless of whether it is on my side of the land line or on his side. I am compelled to do so by self-defense and by every motive and basic consideration of human nature. The ground which he permits—or perhaps he cannot help it—to be used as an arsenal for destroying me loses the sanctity that would otherwise be his because it is his home.

Therefore, I think it would be well for us to look at the objectives which we have in mind in the operations against the Cambodian sanctuary areas. First, from a tactical standpoint, the objective is to destroy enemy supplies, enemy facilities, enemy logistics support, and enemy storage areas which have been used for years to attack allied soldiers in South Vietnam. That has been the trouble; we could not get them out of these sanctuaries. The long-term objective is to hasten withdrawal of American troops, to speed up Vietnamization, and to reduce American casualties.

Because of the approach of the monsoon season, if the operation was to be undertaken, it had to be undertaken at this time. This was not an "invasion" of Cambodia in any sense of the word but purely a protective measure we finally decided on taking—finally, after all these years—against the sanctuaries which will be terminated very soon.

While Congress may have the power to limit the areas in which our forces may operate by riders on appropriation bills and by otherwise barring the expenditure of funds, this procedure does not recommend itelf to logic. It certainly should not do so without a full understanding of the impact and ramifications of what it is doing. We must be concerned with the impact on American casualties, the Vietnamization program, the pacification program, and the withdrawal of American troops.

I submit that the passage of the amendment will not help in any manner in protecting the lives of American military men, the Vietnamization program, and our plans for troop withdrawal. As a matter of fact, tying the President's hands with regard to Cambodian operations would severely jeopardize the Vietnamization program and the present plan to withdraw 150,000 American troops over the next year.

We had just as well forget this withdrawal, in my humble opinion, if we are going to turn these sanctuaries back over to their former immune status. That would result because of the operational advantage that would be afforded again to the North Vietnamese in striking against the South Vietnamese and American forces from the privileged sanctuaries in Cambodia.

I think the seriousness of the situation has been illustrated and dramatized since the President announced the 150,000 troop withdrawal plans. No sooner had he made this announcement than a broad expansion of the Cambodian sanctuaries was started by the North Vietnamese. They were attempting to create a continuous 600-mile stretch of Communist-controlled territory along the Cambodian-South Vietnamese border—a springboard for attacks against our troops in South Vietnam and a refuge and safe haven where enemy troops could return without retaliation. This buildup was accompanied by an actual invasion of Cambodia after the overthrow of the longtime government of Sihanouk.

I think it would be a great mistake to tie the President's hands at a time when rapid and direct response is necessary to protect the lives of our 400,000 troops fighting for our country's interest in South Vietnam. In entering Cambodia all the United States and South Vietnamese forces have done is to exercise the right of collective self-defense which is restricted in extent, purpose, and time, and, for the large part, is confined to border areas where the Cambodian Government has long since ceased to exercise any effective control and which has been completely occupied by the Communist forces.

I return now briefly to the constitutional question involved. I think it is essential that the President be able to issue orders to military units, and to take necessary steps to bar any hostile move against American bases or against our own troops stationed either at home or abroad. I think his position as Commander in Chief of the Armed Forces necessarily gives him the power to take such action and I think that the Senate and the Congress would be ill advised to attempt to deprive him of it, especially under these circumstances.

It appears to me that this amendment invades areas of responsibility which are and properly should be reserved by the Constitution to the President alone. As Commander in Chief the President has the primary responsibility for directing the operations of the armed services, either within our country or outside of it. Reasonable men may very well disagree about the wisdom of his actions, but it would appear both from the Constitution and from historical precedents that the President has the power to send U.S.

military forces abroad when he deems it to be in the national interest. As John Marshall noted when a Member of the Congress in 1799:

> The President is the sole organ of the Nation in its external relation and the sole representative with foreign nations.

I think that is a significant point, not just from the military standpoint, but that he is the sole organ—the sole organ of the Nation, both as Executive and as Commander in Chief. When we close his mouth or cut off his power, there is no substitute that we can put in his place. Who is going to be a substitute? Are we, the Congress, going to be the substitute?

Even leaving aside such pertinent matters as the Tonkin Gulf resolution and the SEATO pact, I think there is a sound legal basis for what the President has done. His power as Commander in Chief under article 2 of the Constitution, as already cited, is broad and sweeping. Historically, it has not always required a declaration of war by the Congress, as I have illustrated.

Therefore, Mr. President, I believe that we would commit a grievous error, especially now, if we enact into cold, hard law this proposed limitation on the powers of the Commander in Chief while our fighting men are still in battle. From my position and from my understanding of the problem I must warn the American people against being stampeded, against coming to quick conclusions, against going over the brink in support of this resolution, prompted by the desire we all share, including its sponsors, to bring the war in Vietnam to an end just as soon as possible. We have a serious and difficult problem in South Vietnam but we should not allow this to cause us to go over the brink and cut and run without stopping to reason. We must and should take time to give this grave question serious and complete second thoughts.

That term is a favorite of mine. I believe the second thought of the American people is nearly always sound. Their first thought may be emotional or impulsive, but give them time for that complete second thought, and if they have the facts, they will come up with sound reasoning.

As I have said, I believe that the action against the sanctuary areas in Cambodia was a necessary step in order to protect our men on the battlefields of South Vietnam and to insure the success of our planned withdrawal program. I hope that both the Congress and the public will show forebearance and patience and will await further developments with respect to the action which the President has taken in what I believe to be a sincere and limited effort to destroy the sanctuary areas and thus hasten the end of the war and the speedier return of our American troops.

Mr. President, I believe that this amendment, the Cooper-Church amendment, though offered with the finest motives, has potential military mischief in it. I believe it involves chances that we are not prepared to take. I hope and believe the solemn judgment of this body will be to reject the amendment.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. STENNIS. Mr. President, I had said I would yield to the Senator from Kentucky. At this point I yield to him.

Mr. COOPER. I expect to speak on this subject on Monday. Between now and then, I shall be able to read carefully the speech of the distinguished Senator, although I have heard the major part of his address. But I thought I should explain at this time, to him and other Senators present, the purpose of the amendment.

I say with all deference to the distinguished chairman of the Armed Services Committee that during his speech—and I know it has been a very honest speech, because it comes from an honest man—I do not believe he has delineated precisely the effect of this amendment, first, as it affects the constitutional powers of Congress and the President and, second, as to its policy implications.

I think I can tell the Senator the intended purpose of the amendment, the intention of the sponsors of the amendment, and they are the Senator from Idaho (Mr. CHURCH), the Senator from Montana (Mr. MANSFIELD), the Senator from Vermont (Mr. AIKEN), as well as myself. We are concerned about the situation in Southeast Asia and also we are appreciative of the President's intentions and constitutional powers. We have worked to prepare an amendment which is applicable to the circumstances in Southeast Asia, and to the constitutional powers of both the President and the Congress.

There are two purposes of this amendment. The first purpose is expressed in subsections (2), (3), and (4). The purpose is to prohibit all U.S. forces from becoming involved in a war in Cambodia, for Cambodia, for any government in Cambodia, for any Cambodian military forces.

What is the constitutional basis to support the first purpose? We have tried in this amendment to assert the powers of the Congress. We do not attempt to construe the powers of the President, except in one respect, our purposes to prohibit funds for a war for Cambodia, for its forces, for any government, and as I have said, it does prohibit the support of any U.S. forces on the soil of Cambodia, in support of Cambodia, and Cambodian forces without the approval of the Congress.

Further, subsection (3) provides that we shall not employ, through contract or agreement, the citizens or nationals of another country to fight in Cambodia, for Cambodia, or their forces; because if that were done, and even though our forces were not in Cambodia, the United States would be committed to their support, and inevitably, I believe, we would be drawn into a war for their support, as we have been drawn over 20 years to the support of South Vietnam.

The Senator stated—and many have stated in their comments on this amendment, that we are inhibiting the constitutional powers of the President to protect the lives of American soldiers. Of course, this argument has great appeal. It has appeal to me. The President of the United States, as Commander in Chief, does have large wartime powers. But I do not believe this power can be employed to enter a new war in another country—for Cambodia—particularly when there is no obligation, no treaty obligation, no obligation under the SEATO Treaty, which Cambodia denounced. Certainly, we have no obligation to engage in the self-defense of Cambodia. And it would be extreme to enter a larger, expanded war in Cambodia upon the basis of the protection of our forces.

The President has great powers as Commander in Chief in wartime to protect our Armed Forces. With respect to this power, this amendment would not limit, except in one respect, and I want to be frank about the exception. It would say to the President "We respect your power to defend our forces and to protect their lives, but you cannot use that power to enter into another war in another country without the consent of Congress."

The President has said, with respect to all these issues that it is his intention to carry out the purpose of section 1, which would prohibit the retention of U.S. forces in Cambodia. He has said at the White House that the outer limit was 7 weeks or July 1, and nearly 2 weeks have passed. I respect his statement, and I believe that he intends to do what he has said. He said, also, that he did not intend that the United States should become engaged in a war for Cambodia, and I respect that statement.

But there are forces and events outside the control of the President of the United States, and certainly of Congress, which—against the best intentions—could make it impossible to carry out those intentions if we remain in Cambodia. I hope this will not happen. I hope the purpose of the President is realized. But we have the duty to do what we can to see that forces beyond the President's control may not happen. If there should be a change in the government in Cambodia, would we support the new government? If Sihanouk is placed in northern Cambodia and is recognized by the U.S.S.R. as he has now been recognized by Communist China, should we support the present government or a successor government and become engaged in a civil war? If the North Vietnamese and the Vietcong move larger concentrations of forces, flanking the sanctuaries, does it then follow that we would stay, to fight in the area, and defeat the express purpose of the President to move out in a fixed time limit?

I say with great respect to the Senator—and the Senator knows how I feel about him—that many of his arguments gave me the impression that likelihood of being involved in Cambodia would occur. The Senator asked: If we clean out the sanctuaries and they are established again, what will we do? The most effective way to protect the sanctuaries after they have been cleaned out would be to stay in or near the sanctuaries; but a new flank, and new sanctuaries to the west would be established. The logic is that in the worst of events, we could be compelled to stay in a country to which we have no obligation at all.

Ours is a limited amendment. We respect the President's authority. In our section 4 we do not seek to limit the

President's use of air forces to protect our troops in South Vietnam from supplies and personnel coming from the Vietnamese and Vietcong. We do not attempt to define his power to protect our forces. He has wide powers, and he can exercise those powers; and after those powers have been exercised, we in Congress can do nothing.

This stalemate has occurred in other situations in our history, and when it comes, the power of each branch is unclear. As the great writers have said, the best that can be done is to try to respect each other, to reach some accommodation. And this our amendment would do.

Without trying to delineate his powers, we are saying to him, "Mr. President, with great respect for you, if this amendment becomes law, you cannot use the authorized and appropriated funds of the United States to become involved in a larger and wider war in Cambodia." It shows our respect for him. It also shows our respect for our obligations and duties as Senators. I have supported the President's program of Vietnamization. It represents a change from the policies of the past and represents what I consider to be an irreversible policy to bring our forces home.

Mr. President (Mr. CRANSTON), we do not sanction the Cambodian operation in the amendment but, likewise, we do not condemn it. I must say, in all honesty, that any amendment adopted will be taken by some to mean that it was designed to embarrass or criticize the President. I suppose that is impossible to correct.

I argue that, in respect of our own powers, we have moved reasonably to assert the constitutional authority and duty of the Congress, to prevent as I am sure the President wishes to prevent widening of the war and a war for Cambodia.

We do not try to limit the constitutional powers, except as I have stated, of the President in or for the future. I believe, upon reflection, that every Member of the Senate—I do not know—but I believe all Members of the Senate would say, "The people want an end to the war, the Senator from Mississippi wants an end to the war, and we all want the war to be ended."

We do not end it by widening it into a new war in another country, or into an expanded area. As quickly as we can, we want to remove the danger of being bogged down in Cambodia. We want to exercise our powers and our duty as Members of the Senate to assist the President in the ending of the war.

Mr. STENNIS. I am glad to have yielded to the Senator from Kentucky and I certainly expect to listen to his presentation on Monday next.

If I could just reply to one point the Senator made, about the rebuilding of the sanctuary, my point there was that if we put it into a published law that we were not going to have U.S. forces intervene to do it, I believe that that would make it much more highly probable that they would come back almost immediately.

Mr. COOPER. The President himself has said that.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I am happy to yield to the Senator from Delaware.

Mr. WILLIAMS of Delaware. Mr. President, I compliment the Senator from Mississippi on his remarks today. He has done much to put this whole question in its proper perspective. I join him in emphasizing that while some of us may question the wisdom of approval of the pending Church-Cooper amendment we certainly do so with no thought of questioning the motives of those who sponsor the amendment.

It can be universally agreed in the Senate as to its intended objective; namely, to bring about an end to the hostilities not only in Cambodia but also in Vietnam and to get our men out of that area. We may differ as to procedure, but I think that should be emphasized, but I am glad the Senator from Mississippi made that point.

Mr. STENNIS. I think the Senator speaks for all of us in that way.

Mr. WILLIAMS of Delaware. Now, Mr. President, in discussing the pending amendment, as the Senator from Kentucky pointed out, it is effective immediately upon enactment. Thus, we are assuming, if we vote on the amendment today, that we are willing for it to be put into effect today. Reading the amendment, I believe the interpretation has been generally accepted to mean just that.

The amendment provides—

> * * * no funds authorized or appropriated pursuant to this Act or any other law may be expended for the purpose of:
>
> "(1) retaining United States ground forces in Cambodia.
>
> "(2) paying the compensation or allowances of, or otherwise supporting, directly or indirectly, any person in Cambodia who (a) funishes military instruction to Cambodian forces; or (b) engages in any combat activity in support of Cambodian forces.

Mr. President, I think we will all agree that while the initial movement into Cambodia was not to help the Cambodian Government, nevertheless it will help it. We cannot say that our destruction of these sanctuaries either directly or indirectly does not help the Cambodian Government. Thus we are speaking of the present situation in Cambodia.

As the pending amendment has been interpreted, and I think it has been an interpretation which has been accepted by the sponsors of the amendment, it would accelerate that objective by stopping the compensation of American personnel who were in Cambodia upon the date of enactment of the amendment and would also stop any other allowances for those men until they were brought out of Cambodia, back into South Vietnam, or to A.nerican soil.

I believe, therefore, that the effect of the amendment would be that the moment it was enacted—and we are voting on it in good faith, figuring it to be passed by the House and signed by the President—we would be saying that American troops and personnel who were drafted into the Army, who did not ask to be assigned to Vietnam, who did not ask to have to march into Cambodia, who went there under orders—they certainly would be subject to court-martial if they would not go—but we say here the moment this amendment is passed, "You draw no further pay. You draw no further military pay. Your family allowances are likewise stopped until you are withdrawn and completely out of Cambodia."

Mr. President, I believe that is rather harsh treatment. I think we have the cart before the horse when we figure to hold as hostages, these men who are defending the principles of the American Government abroad. I do not believe that by any line of reasoning we can justify such action.

Yet I say that as one who wants to bring this war to an end as quickly as possible and as much as anyone else does.

I believe that as long as one American boy is assigned anywhere in the world and wears the American uniform the full resources of his country should be back of him until he is brought safely home.

I do not believe that 5,000 miles away, in the security of the Capitol, drawing our pay daily, we can say to these men, "You are not going to get paid until you get out of Cambodia."

I raise another question. This stops the "allowances" as well as making them ineligible for any pay during the time they are on Cambodian soil.

Assume that the President accepts this amendment and he calls for an immediate withdrawal. Some say that could be done in a week. Maybe in 3 days, but suppose it were in one day. That would be stretching the imagination, of course. But suppose one of the men gets killed on the way out of Cambodia or is maimed for life; the pending amendment if approved would say that he would not be eligible for any allowances or any compensation even if he were disabled on the way out after this becomes law. In other words, such a man would be eligible to receive nothing under this law or any other law, he will not receive any allowances or compensation until he gets back onto Vietnamese soil.

That is not beyond the line of reason, should this be passed in its present form.

In my opinion if there are those in the Senate who feel that the good faith of this country could best be demonstrated to our own citizens as well as to nations abroad that we are going to withdraw our troops from Cambodia as the President has promised, by a monetary factor, then instead of placing the salaries and family allowances of our servicemen as hostage why not place our own salaries in escrow? Why do we not, as Members of Congress, simply say that we will lay our salaries on the line and draw no pay until we get our American troops out of Cambodia?

That would certainly show the good faith of Congress and show it in a much better way than making monetary hostages of our soldiers and their families. Surely the Senate will not stop furnishing them with military supplies that may be necessary to get them back out of the Cambodian area. They did not ask to go in that war zone.

Certainly we are not going to stop sending them supplies. Yet under this amendment there will be no supplies until they get out, whether food, military equipment, or other supplies. There will be no pay for either the men or their families.

We will be telling them that if they get killed or maimed getting out their benefits are repealed by the Congress should this amendment be adopted. I repeat, if Congress really wants to enact a monetary penalty, it should put its salary on the line. If we want to go further we can do it until we get them safely home from both Cambodia and Vietnam.

I venture to say if that procedure were followed we would find one of the hardest working Congresses in history in the interest of peace.

Mr. STENNIS. Mr. President, the Senator has made an overwhelming argument.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. COOPER. Mr. President, the logic of the Senator's argument is that Congress should never do anything.

Mr. WILLIAMS of Delaware. No.

Mr. COOPER. I would like to finish, with all deference. The only certain constitutional power that Congress has over a war is through its power of the purse strings. That is all.

It can pass resolutions. We can through sense of the Senate resolutions and sense of the House resolution express our positions to the Executive. But if he thinks we are incorrect, he does not have to follow our suggestions. The purse is our power.

Mr. President, the Constitution did not give the Congress the power lightly. The Constitutional Convention made a distinction between the King of England and the President of the United States. The King of England had the power both to declare war and to raise armed forces for war.

The Constitution gave to Congress the power to raise and support an army and navy.

The logic of the argument the Senator makes is that we can never use this constitutional power, because he says the soldiers will not be paid and their wives, their widows and children, will not receive allowances.

That decision would be a matter for the President.

If the Congress passes this amendment, it will then be a matter for the President to decide whether it shall be followed. If by some mischance, there was a period of time when this was not observed or any other factor intervened to affect the rights of our servicemen, that matter could be corrected. We respect our servicemen. I know that Congress and the President of the United States would see that such a situation would not remain.

We are trying to deal with the large question of avoiding another war. That far overshadows these objections.

Mr. WILLIAMS of Delaware. Mr. President, I respect the position of the Senator from Kentucky. And I do not advance this in a critical manner, but that is the mathematical effect of his amendment.

I voted for limitations of the President's power in a proposal last year which would restrict the assignment of troops in Laos and Thailand. But troops were not there at that time. That was against the future prospect of the assignment of troops.

We have a situation today where there are troops in Cambodia at this time. I want them out as quickly as possible. But it will take time to get them out.

The President has said that all American troops will be out of Cambodia by the end of June. I accept his word as having been given to the American people in good faith.

After the amendment passes, it would take a few days to get them out. This amendment would not be effective July 1 or June 30, or anything like that. It would be effective immediately upon enactment. We would be cutting off all pay and allowances immediately.

I want these troops withdrawn as soon as possible; however, it takes some time to do that, and during that time this loss of their pay can happen.

I think this point should be clear.

I agree that the power of the purse is in the hands of Congress, and perhaps directing that power in certain directions would have influence on the Government.

Rather than using the power of the purse to withhold pay from the boys in Vietnam and Cambodia who are there through no fault of their own, let us put our own salaries on the line and put them on the line as a demonstration of our good faith. We should not put their pay on the line.

I think it would be most unfortunate for the families of the servicemen to feel that they are being cut off from all benefits under any circumstances regardless of how short this period may be.

I question the effect of such action on the morale of our troops. If we could do this today for troops in Cambodia we could do it tomorrow in Vietnam. Does anyone dare suggest we stop the pay of all military personnel in Southeast Asia?

There is tremendous sentiment in favor of bringing them home as soon as possible. However, is this any way to treat these men when we sent them there?

As one who is concerned about the situation in Cambodia I express again that I have not changed my position on that matter. I wish we had not gone in there; but we did go in, and we are there. And now that those men are there, as far as I am concerned every resource of the Government will stay in back of them until they are brought home. That is the number one job. As far as I am concerned they will get not only their full pay and full allowances but also all the supplies they need until they are brought home.

I will cooperate in bringing them home as quickly as we can. I want them to get out of that area. I shudder to think what it would do to the morale of these men and of their families if they knew that the Senate proposes to cut off their pay on the basis that we do not think they should be there.

That is the effect of the amendment, and I hope that Congress will give this serious consideration before it votes.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. STENNIS. Mr. President, I yield to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I was planning to ask another question. However, with respect to the last question, the Senator from Delaware has been here a long time. I am amazed that he thinks this would go into effect immediately upon passage.

As a matter of fact, the Parliamentarian would tell us that it could not possibly go into effect immediately. If we pass the amendment today, it could not go into effect tonight. There are other procedures to be followed. This measure would have to go to the House. There would no doubt be a long, drawn-out conference with the House. Then the Commander in Chief—about whom the Senator from Delaware has such unlimited respect—has to sign the measure to make it a law.

He would not sign it before the men were out. It would be a very simple matter to bring them out. He put them there. It would be a very simple matter to correct that. He ought to bring them out. He has already publicly and privately stated that he would bring them out.

The President assured us on television that he would bring some of them out this week and that all of them would be out before the 1st of July.

Under the procedures followed by the Government, there is not one chance in 10,000—in fact, I would say there is no chance at all—that this would be signed in such a way as to go into effect, and in any way prejudice the rights of the soldiers there. I say that, assuming that the President told the truth about his intentions.

I think this is the most irrelevant argument that one could make. I cannot imagine why anyone would make such an argument. I have never heard the Senator from Delaware, in the 20 years I have been in the Senate, make an argument with no more substance than that.

The Senator from Delaware knows the provision would not go into effect until the President signed the bill. That would not be today, tomorrow, or next week. The Senator knows that as well as anyone.

Mr. President, in the opening speech of the Senator from Mississippi, he evidences a little disbelief and distrust in what the President said, certainly what he said at the White House, where I was present with a great many Members of Congress—some 50 Members—and what he said later in his press conference.

The Senator is saying throughout his argument that he does not believe the President intends to bring these soldiers out.

I do not understand how he reconciles his arguments. If he believes the President why does he think this amendment is not in order? I would like to hear the Senator reconcile these apparent contradictions.

Mr. STENNIS. Any suggestion that I disbelieve the President or do not believe the President is totally wrong. I suppose the Senator is referring to the President's statement about withdrawal of the troops.

Mr. FULBRIGHT. That is right. He made it on two or three different occasions.

Mr. STENNIS. I said it in my principal argument. I said that some persons had said to me, "We are taking the President at his word," and I am referring to proponents of the amendment. I said, "I think the very opposite is true. I think you are totally rejecting his word. You are telling him, 'Even though you said you are going to do this we are going to pass a law, and put it in cold law, that you will have to do this and then we are going to fix it where you will have to come back here and get another law passed before you can make another move with U.S. troops with regard to sanctuaries.' "

That is the way I see it. The Senator can argue the other way but that is my view.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield so that I can make a statement with respect to the earlier statement by the Senator from Arkansas?

Mr. STENNIS. I had promised to yield to the Senator from Arkansas. I would like to yield to him further.

Mr. WILLIAMS of Delaware. I would like to clarify the Senator's statement. I do not want him to remain confused too long.

Mr. FULBRIGHT. I do not think I am confused about the process of enacting a law.

Mr. WILLIAMS of Delaware. I want to say he is confused.

Mr. FULBRIGHT. I have never seen a bill enacted without it first going to the other body and then to the President.

Mr. WILLIAMS of Delaware. Will the Senator yield on that point?

Mr. FULBRIGHT. I do not have the floor. I want to propound another question.

Mr. STENNIS. Mr. President, I yield briefly to the Senator from Delaware.

Mr. WILLIAMS of Delaware. Mr. President, the Senator from Arkansas makes much of the fact that this proposal will not become law when passed by the Senate and that the President can either sign it or delay it. I recognize the President can veto it. Likewise it can go to the House; the conferees could be weeks in reaching an agreement, and by that time the President's statement that they would be out by July 1 would be reached and it would have no effect.

But on the other hand, the House could accept this amendment without a conference, and it could be put on the President's desk in the next few days.

I proceed on the premise that the Senator from Arkansas and his supporters are acting in good faith and want this bill acted upon today.

The Senator from Arkansas knows the procedures. When we vote on this measure we are voting on it—or I assume the Senator from Arkansas is—in good faith and on the premise that it goes into effect promptly. It becomes effective upon enactment.

Mr. FULBRIGHT. That is absolutely silly, if I may say so. I never voted anything——

Mr. STENNIS. Mr. President, I have the floor.

Mr. FULBRIGHT. He knows better than that.

Mr. WILLIAMS of Delaware. I am not questioning the good faith of the Senator from Arkansas.

Mr. FULBRIGHT. Will the Senator yield to me?

Mr. STENNIS. Mr. President, let me say this. I am not trying to hold the floor indefinitely. I am willing to yield to anyone who has a question.

Mr. FULBRIGHT. I asked the Senator a long time ago to yield and he declined.

Mr. STENNIS. Let me finish my statement, if I may.

The Senator from Arkansas asked some time ago to be yielded to but I had already promised the Senator from Delaware I would yield to him.

I yield gladly to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, to make the RECORD clear I am quoting the President's words in his press conference. I do not think there is the slightest doubt he said this.

> The action actually is going faster than we had anticipated. The middle of next week,—

This was last week—

> . . . the first units, American units, will come out. The end of next week, the second group of American units will come out. The great majority of all American units will be out by the second week of June, and all Americans of all kinds, including advisers, will be out of Vietnam (the President meant Cambodia) by the end of June.

That is what he said. Is the Senator saying that the President does not mean it? I am bound to say that this question of taking not just this Executive, but his predecessor, at their word and in good faith is a question that has bothered us for a long time. But the Constitution was not based on the certainty that everything would be done in good faith. That is why we have the provisions of the Constitution.

I do not believe the Senator said that it is not within our constitutional authority to pass this measure. He made no such argument. It is a matter of judgment, is it not?

Mr. STENNIS. I said earlier we had the naked power to cut off the funds.

Mr. FULBRIGHT. The constitutional power.

Mr. STENNIS. To cut off funds.

Mr. FULBRIGHT. That is right.

Mr. STENNIS. But when it comes to exercising that power in a way to risk the Commander in Chief's right while a battle is going on and men are being killed, the wise use of our constitutional power to withhold appropriations would be not to withhold them.

The wisdom is written in between all of these lines of our Constitution. We try to exercise it the best we can.

Mr. FULBRIGHT. If I may say, under the conditions which prevail and, in view of the President's statement, it would not have the effect of restricting pay while the battle is going on. This measure prohibits use of funds to retain them there. This is an effort to carry into effect, into law, the words of the President.

He said that not only in his press conference but also to the Representatives and the Senators who were invited to meet with him. This statement was obviously designed by the President to reconcile the Congress and the public to this move, which he took without any consultation with the Senate. It was an effort to bring about acceptance of something that was already done.

It seems to me that it is not only our right but it is our duty to take him at his word and to put this promise in language that is unmistakable in intent. The Senator from Kentucky and the Senator from Idaho were extremely careful to restrict this to Cambodia, as the Senator knows. I and others would like to see the same approach taken with respect to getting out of Vietnam. But for reasons that are too complex to go into now, this was a minimum step, taking the President at his word.

Unless you do not believe the President, I do not see how one could say that this could interfere with combat operations because the President said they would all be out of Cambodia and back in Vietnam soon. If you do not believe the President, that is an additional reason why you should support this amendment. If you really have a suspicion that he does not mean what he says, then by all means every Senator should support it; to do otherwise would betray our fundamental duty.

Mr. STENNIS. Instead of a matter of distrust, there are two very practical answers to the point the Senator raises. First, I know this is a legislative formula that was put together and it shows ingenuity, and skill, and timing. But here are two practical points in this timing. I do not see how any President can call to a day certain when a battle will be over or can assume there will not be reverses and new facts developed to make him, as a matter of reason, want to change that timetable.

Mr. FULBRIGHT. He has already done that.

Mr. STENNIS. Just a moment. He has made an estimate of when he thinks it will be prudent to withdraw.

I know that adversity can develop, and if he cannot make it, no one would want him to do that in the face of causing a disaster to our men.

Mr. FULBRIGHT. Well——

Mr. STENNIS. That is one element, if I may finish. No. 2, it is proposed to freeze in here what his future action may be, regardless of what may develop there, or as to any other sanctuary. It is proposed to require the President to come before Congress and get a law passed before he can use his judgment as Commander in Chief, and that would give 30 to 60 days' notice to the enemy that the President wanted power to destroy the sanctuaries; therefore, they would just move out in advance.

So, as a practical matter, without going into what would happen on the battlefield, those are logical answers to the point the Senator makes.

As I see it, that is just as serious a matter as it could possibly be.

Mr. FULBRIGHT. With regard to the first comment, the President set the date. The committee did not. The Senator from Kentucky did not set the date. Moreover, the President can retain that power by not signing the bill. He could go another week. But what the Senator

is doing is confirming what I fear, that the President did not mean it when he said our forces would be out by the first of July. It was just an estimate, and it could turn out to be next December or a year from now. That is what I meant when I said the Senator is really saying that he does not believe the President is serious about the July first deadline.

Mr. STENNIS. The Senator put words in my mouth that are false. I repudiate them.

Mr. FULBRIGHT. The Senator said that it was just an estimate.

Mr. STENNIS. I said that the President cannot guarantee that date. Just as commonsense, as I said, he does not know what is going to develop. Facts could develop where he would be disloyal to his oath and criminal in high office if he did not keep them there longer, if it was necessary to protect them and our other boys. So I think we are arguing an academic question.

Mr. FULBRIGHT. I agree with the Senator that the President does not know what is going to happen. That is the reason why we have grave reservations about his taking that action, because he does not know what is going to happen. But he himself chose to use that argument and to lay out a program of withdrawal. I do not see how in the world a Senator can object to a provision that takes him at his word.

As to the Senator's second point, that there may be moves against other sanctuaries, that is exactly what some of us fear. It is amazing to me to hear the Senator from Mississippi make this argument, when he has been one of the strongest advocates of a strict construction of the Constitution and for upholding the rights of the Senate. Over the years, I have stood with him in other matters regarding other constitutional questions. I have often spoken at some length with the Senator. I have always insisted, as has the Senator from Mississippi, on the rights of the Senate. He has wanted the Senate to assert its proper constitutional role. Now he simply wants to arrogate to the Executive the right to make very grave decisions for which Congress also has a responsibility. He points out that there may be other sanctuaries. They may be in China. According to the Senator, if the President wants to go in, he should have the freedom to do so. I reject that thesis.

If the President wants to go into any other sanctuary, all we are saying is, "Consult Congress; confer with us." This is consistent with the commitments resolution passed last year. The Senator from Mississippi supported it. He was of great help in getting it passed. His statements in support of its passage were very useful. Now, because we are in trouble, it seems to me that he is willing to abdicate the responsibilities of the Senate.

What is wrong with what is proposed? If the President wanted to go into another sanctuary—in China or into Laos—why should he not come and ask the approval of the Senate? I think he should. I am surprised that the Senator from Mississippi does not think he should consult with this body.

Mr. STENNIS. Pass the resolution, or the amendment, the way it is written, and we create a field day for our enemies to have sanctuaries wherever they want to and as strong as they wish, and they would be running the show, and we would have to send many more men into South Vietnam or abandon the present program of withdrawal. I stated that before the Senator got the floor.

Mr. FULBRIGHT. I cannot understand it——

Mr. STENNIS. That is my opinion about it. The Senator said I have always exalted the role of the Senate——

Mr. FULBRIGHT. The Senator used to.

Mr. STENNIS. May I make my statement? Before the Senator came to the Chamber, I referred to the power to declare war. I have been around long enough to have heard many powerful statements made in behalf of the commitments we made; that it was old-fashioned and the requirement of a resolution by Congress to declare war was actually scoffed at. I do not remember the Senator from Arkansas making that statement.

Mr. FULBRIGHT. No, the Senator does not.

Mr. STENNIS. I do not suggest that, but I have never been satisfied and I am not happy about what has occurred in South Vietnam without a declaration of war, and have mentioned that a good many times. But that bridge has long since been crossed, and to come back now and try to recall time is something we cannot do.

Before the Senator came into the Chamber, I based my support on the destruction of the sanctuaries on this proposition: I think that our withdrawal program will soon be imperiled if we let all these sanctuaries continue and operate with impunity, which the adoption of the amendment would allow. So it is a matter of our program of trying to get out of there that is involved.

Another thing is that if we adopt this amendment, I think we almost totally destroy the negotiating power and prospects of the President of the United States. So far as this war is concerned, there will be no more chance in that field.

So I am satisfied in the logic of my viewpoint, based on those two conclusions. I think, of the two, the last one is the stronger. That is why I do not believe the American people, when they understand it, will ever put up with it. They will say, "No, no. Do not restrict the President of the United States. He is the only voice we have. He is the voice."

Mr. FULBRIGHT. Let me ask the Senator one more question: Aside from the withdrawal, the President said these troops are not going to go farther than 21 miles. He said that positively when we met with him at the White House. It has also been said publicly. Now it is claimed that this amendment would tip off the enemy; that it would be cause for rejoicing in Moscow. How can the Senator say that when, on the one hand, he says the word of the Commander in Chief is law and we should not question it, and, on the other hand, he says by doing this we are putting restrictions on the President?

Mr. STENNIS. According to the argument of the Senator, he does not need this amendment. He does not need the law. He has already said it.

Mr. FULBRIGHT. I did not quite say that. I did not say I trust the word of the President, or that we should——

Mr. STENNIS. How about the Senator himself? Does he believe him?

Mr. FULBRIGHT. No; I do not think he knows for sure that all our forces will be out by July 1. Just as the Senator from Mississippi said a while ago, he does not know what is going to happen. In my opinion the President made these promises to the American people in order to try to reconcile them to what I think was an imprudent action. Now it is the duty of the Senate to take him at his word and to write his promise into law. The reason why we have a Constitution and a Senate is that we cannot do the business of this country solely on personal promises. Our system is founded on rule by law. That is what the Constitution is all about.

I know other Senators have some questions for the Senator from Mississippi. I would like to ask one final question, however. Is it fair to conclude, that in the Senator's view, if the President decided, next month or next year, without any consultation with or approval of the Senate, that in order to protect the lives of our soldiers in Vietnam it was necessary to invade Laos and get at the sanctuaries there, such action would be perfectly proper?

Mr. STENNIS. That depends on circumstances somewhat, but I say as long as we are staying in Vietnam, sending men in there to sacrifice their lives, I will never agree to having the President cut off from using his judgment to attack the sanctuaries.

They are no more a part of a foreign country than my backyard is at home, in view of the circumstances that they have been used as an arsenal against us for years, and they are not under the control of this foreign country.

So we do not attack this other country; we attack the arsenal that is permitted to be used there, or maybe they cannot help themselves. We go after the arsenal.

Mr. FULBRIGHT. Then he could clearly attack China without consulting the Senate or the House; he could attack China on the same theory. That approach is a complete abdication of the role of the Senate. I cannot believe that the people of this country want to so emasculate our constitutional system.

Mr. STENNIS. The Senator has gotten so far from where the war is that I cannot follow him. I am not going to follow him to China, just as I cannot follow his logic. The Senator is a very persuasive orator and a skillful legislator.

Mr. FULBRIGHT. Mr. President, I appreciate that. It is the first time anyone has ever said that.

Mr. STENNIS. But I cannot go along with him.

I believe I promised to yield to the Senator from Wyoming next.

Mr. HANSEN. I thank the distinguished Senator from Mississippi.

First of all, Mr. President, I compliment the Senator for having presented a very scholarly dissertation here, on facts all of which are germane to the consideration of the proposal now before us.

Mr. STENNIS. I thank the Senator.

Mr. HANSEN. I rise to ask two questions.

First, I am somewhat confused. I tried to understand what the Senator from Arkansas was saying, and it seemed to me that, in response, in colloquy, to the distinguished senior Senator from Delaware, what the distinguished Senator from Arkansas was really saying was that, while there may be some danger in the immediate implementation of this Cooper-Church amendment, we need not be too fearful, because at the very least it will take a few days.

I had thought that the sponsors of the amendment and others were convinced that there was merit in it. I presumed that they wanted to get it passed as expeditiously as possible; that they feel that, with its passage, the Congress of the United States would be asserting its right, within the limits of the Constitution to draw the line, to say what moneys may be appropriated and where they may be spent in prosecution of wars which may have been initiated by the President of the United States.

My confusion arises out of the fact that I can only gather, I can only assume—it is a judgment on my part—that the distinguished Senator from Arkansas just is not quite that sure. He is not quite sure that he wants to have this law passed and become effective immediately, because, as was pointed out by the distinguished Senator from Delaware, there are some dangers. It just could be that someone might be killed over there, and he might be the father of two or three children, and neither they nor his wife—if I understand the amendment correctly—would have any rights at all; the United States, once this amendment is passed, if it is passed, would automatically vitiate all of the rights, all of the privileges and the guarantees that the Congress of the United States from time to time has written into law so as to be certain that our fighting men will be given the protection and the security that the Government of the United States is capable of giving them.

That is my first impression. It does leave me a little bit confused as to how quickly we should pass this amendment, if it should be passed at all.

But, getting down more specifically to the point——

Mr. COOPER. Mr. President, will the Senator yield to me at that point?

Mr. HANSEN. I am happy to yield.

Mr. COOPER. The Senator asked a question about the meaning of my amendment. I want him to be clear about it.

The PRESIDING OFFICER. The Senator from Mississippi has the floor.

Mr. STENNIS. Mr. President, I do not want to hold the floor to the exclusion of anyone else. I believe I have a duty to yield, and I want to, for questions.

Mr. COOPER. I shall just take a minute.

Mr. STENNIS. I yield to the Senator from Kentucky.

Mr. COOPER. Mr. President, I want the Senator from Wyoming to know that the amendment means exactly what it says. Upon enactment of the amendment into law, when passed by the Senate and House of Representatives, and on signature by the President, it would mean exactly what it says—no U.S. forces would be retained in Cambodia, and we would reach that objective by the power we have of the purse string. I want that to be clear.

Mr. HANSEN. May I ask the Senator——

Mr. COOPER. Let me add one thing. The Senator has moved away, now—I say this with great respect, as between two friends—from the clear objective purpose of the amendment, which is to stay the damage of getting into a new war in Cambodia.

We do not challenge the power of the President to protect our forces wherever they are, and I shall always uphold that power, which he properly has. But I do not believe this power of the President can be used for entering in a new war, removed from the original war, upon the basis of the protection of our troops.

Mr. HANSEN. Would it be the wish——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Wyoming?

Mr. STENNIS. Yes, I yield to the Senator from Wyoming.

Mr. HANSEN. Would it be the hope and purpose of the distinguished Senator from Kentucky that this amendment might be adopted and enacted into law just as quickly as possible?

Mr. COOPER. Yes, because I think the operation is dangerous.

Mr. HANSEN. Would it be fair to assume, and am I correct in understanding, that in that respect the Senator's feeling about the amendment—and I do appreciate the clarification he has given—insofar as the support of one of the important sponsors is concerned, seemingly does not square precisely with what the distinguished Senator from Arkansas said? I gather that he sees some danger in the immediate implementation of this amendment. But insofar as the distinguished Senator from Kentucky is concerned, it would be his wish and desire that it might be enacted into law as quickly as possible; am I correct about that?

Mr. COOPER. I think, practically speaking, it is not going to be. It must go the lawful route—Senate, House, and to the President.

Mr. HANSEN. But the Senator hopes it would be?

Mr. COOPER. But I hope it would be, because I think it is much more dangerous for the United States to be in that operation. I think the safety of our force will be better protected by getting out at the earliest possible date.

Mr. HANSEN. Would I be right in assuming further that it is the wish and the fervent hope of the distinguished Senator from Kentucky that Congress might exert a right that has not been overused, at least before we venture into any new wars anywhere? Would the Senator go so far as to say before we enter into any new wars?

Mr. COOPER. Anywhere? No, because——

Mr. HANSEN. The Senator would not go that far?

Mr. COOPER. Because some areas might be important to the security of this Nation. I do not believe the South Asia war is.

Mr. HANSEN. Then what the Senator is saying is that the only danger that he sees to this country now is if we get into war in Cambodia?

Mr. COOPER. No, I think there are dangers in other areas.

Mr. HANSEN. Would the Senator be kind enough to identify the other areas?

Mr. COOPER. There are many other dangerous spots in the world.

Mr. HANSEN. Would the Senator name some, for my edification?

Mr. COOPER. The Middle East is a dangerous spot.

Mr. HANSEN. Would the Senator express the same philosophy with respect to the Middle East?

Mr. COOPER. I hope we will not have to get into war in the Middle East.

Mr. HANSEN. I hope so, too.

Mr. COOPER. But I think we are in a war that is not necessary to our national security. The other situations, I hope we will be able to protect against.

Mr. STENNIS. Mr. President, may I say a word? I am delighted to yield to my friends. I am afraid, however, that I am imposing on the Senate.

I do not believe the Senator from Wyoming had propounded his second question. Did the Senator have another question in mind? I yield to him for that question.

Mr. HANSEN. I thank my colleague. I do want to raise this second point, Mr. President, which I have touched upon already.

There are numerous references in the RECORD—and I think the distinguished senior Senator from Montana, the majority leader, spoke about it yesterday—about this not being idle debate, that it should not be taken lightly, that it posed a very serious constitutional question. As I recall, I think those were about his words.

I can read them. He said:

> Mr. President, I think the Senator from Mississippi is under an illusion if he thinks we are trying to get by on the basis of a slight debate. We are not. We are facing up to a grave constitutional question, which I think the Senate should be unanimously behind, because it is the Senate's responsibility and authority, in my opinion, which is at stake. I am surprised that there are Senators who would place the position of this body in a secondary position. This is a most important issue, and I call up the first amendment.

Mr. MANSFIELD. Mr. President, may I say that that is a correct quotation. [Laughter.]

Mr. HANSEN. Mr. President, I would like it noted that I read very well.

I could not agree more than I do with my distinguished and respected colleague, the Senator from Montana. It is a serious question. I think it transcends, if we are going to debate this issue in terms of the constitutional conflict or the outer limits of the constitutional

questions, on the one hand, what is the authority of the President of the United States—how far does it extend; into what areas may he go; what may he spend—and, on the other hand, what are the constitutional prerogatives reserved to Congress. Where may we properly draw lines, and where may we say, or in what degree may we say, that funds shall be spent?

So I agree, as I have agreed many times, with my distinguished friend, the Senator from Montana, that this debate should not be taken lightly.

My second question is this: If it is a constitutional question, and I think it is, it seems to me that we ought not to limit the debate upon one geographic area; because, if we want to raise that question, should we not raise the question as to the propriety of Congress to say, before we start war in any other place—whether it is Cambodia, whether it is China, whether it is Timbuktu. Would it not be well, if we are concerned to say before the President can start an incursion into any other area, let him come to Congress and seek the permission which our contention is we alone can give him?

I would like to explore that at the appropriate time. I do not want to take too long now. But that does concern me very much.

Mr. STENNIS. That is a very good question, indeed. I will just undertake to answer it briefly, because of time.

I think we are talking about two different things. There is the ordinary declaration of war, or the ordinary going into a country. But we are talking about an extraordinary situation here, in that we are already in war, whether declared or not. We are already in battle. Men are daily going to their deaths. The arsenal that the President very effectively attacked is one of the main sources of the enemy's supplies, military equipment, food, and everything else that goes to make war. So, to my mind, there is a great difference in those two situations.

May I just say a word about the point that the Senator from Delaware made about time. Incidentally, yesterday, it was not the Senator from Mississippi who wanted a short debate. I was objecting to the en bloc unanimous consent agreement then. I think it is very reasonable to say that the Senate could have passed this measure yesterday afternoon, if there had not been opposition. The proponents would have made some good points about it and would have been willing to let it go through, and then the Senate would have lost control of it. So one might say that it had passed the Senate and, so far as the Senate was concerned, it was on the way to the White House.

Mr. WILLIAMS of Delaware. That is exactly what I was trying to say, and I understand there may be a vote this afternoon on this question. I hope there will be. The sooner we dispose of this question the better it will be for our country.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. STENNIS. I had promised to yield to the Senator from Tennessee, who has been waiting for quite some time, and also to the Senator from Wyoming, who has been waiting.

Mr. MANSFIELD. May I say to the Senator that I hope the Senator from Delaware was not serious in what he said about a vote this afternoon, because many Senators are absent, on the word of the joint leadership. If that came to a point, we would have to act accordingly.

Mr. WILLIAMS of Delaware. I will not press it. I was just expressing the hope. I will abide by the decision of the Senator from Montana. He can rest assured of that. Personally I had hoped that we could have disposed of this bill today, and as far as I am concerned I am ready to vote.

Mr. STENNIS. I yield to the Senator from Tennessee.

Mr. BAKER. I thank the Senator from Mississippi.

Mr. President, I believe I have been on the floor of the Senate since just after the Senator from Mississippi commenced his excellent presentation, and I am happy to say that I heard the entire colloquy between the Senator from Mississippi and the Senator from Arkansas, the distinguished chairman of the Committee on Foreign Relations, and the colloquy between the Senator from Mississippi and the senior Senator from Kentucky (Mr. COOPER), who is not now in the Chamber. I had hoped that he would be here when I made my next observations, and I conveyed to him the fact that I wanted to do so. I expect that he will return shortly. What I am about to say is something that I feel strongly about, and I am sure that he will give it his attention in the record; and it does not require a reply at this time.

With that preface, I should like to point out something that does not need to be underscored, I am sure. The Senate is dealing with a deadly serious business. The Senate is concerned with the life and death of American men and the credibility of our foreign policy. We are not engaged in any constitutional confrontation. We are engaged in the exercise of partial jurisdiction and partial power that the Constitution spells out, which provides that there will be an appropriate competition between the Senate and the Executive on the shaping and the formation and the implementation of foreign policy. The federal system is riddled with partial jurisdiction and overlapping jurisdiction and competition for authority and uncertainty as to the extent of that authority. It has worked and served us well. However, I do not think we ought to consider that we have something unique in a confrontation between the President and the Senate. We do not. We have a matter of judgment to exercise.

As was pointed out by Senator COOPER today, as I recall his statement, the sole authority of the Senate is the power of the purse. That is not quite right. It is almost right. That probably is our principal one. But then there is the partial jurisdiction on the authority of Congress—the House and Senate—to declare war, to raise armies, to limit their size, and to otherwise inject our judgments into the business of foreign relations and foreign affairs.

That brings me to the point at hand. I thank the Senator from Mississippi for yielding to me so that I can make this observation.

As I understand, it is the contention of the distinguished Senator from Delaware that this amendment could be passed today by the Senate, promptly passed by the House, promptly signed by the President, and could have, I believe, the unintended effect of depriving American soldiers in Cambodia of pay and benefits. He says that could happen, and I think he is right. The distinguished Senator from Arkansas, the chairman of the Committee on Foreign Relations, says no, it could not happen; that it has to go to the House and has to be signed by the President, and that takes time; and he is right, also. What it really boils down to is that it could happen but it probably will not. But that is not the issue.

The issue here is that, if we are really to exercise our partial and overlapping jurisdiction in foreign affairs in a substantial way, it is time we stopped shoveling smoke. It is time we stopped exercising our emotions, and it is time we got down to the business at hand. In this instance, we would do it by deciding, yes, it is possible that this could be the unintended effect of this amendment; and, therefore, we, as word merchants, as legislators, those who deal with the language and translate it into effective organic law, should see what we could do about it, to prevent that unintended effect.

So I would suggest to the Senators who have moved this amendment that if they really want to meet the problem, we need not do it with an extended debate on this floor. We can do it simply by amending the amendment in an appropriate way, to recognize the partial and overlapping jurisdiction in foreign affairs, to recognize that we do not want unintended effects, to recognize that we do not have a constitutional confrontation; but, most of all, to signal to the people of the United States that in these troubled times we are not going to try to inflame passions but, rather, to quiet them. We can. It is entirely possible. But I do not think we are doing that this afternoon.

Mr. McGEE. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I am sorry I could not yield to the Senator from Wyoming before. I am happy to yield to him now.

Mr. McGEE. Mr. President, I want to thank my colleague from Mississippi for yielding to me. I did not intend to inject myself into this debate this afternoon at all, but I was here, fascinated by the colloquy taking place.

It seems to me that now is the time for a long pause in taking an important step such as this, because of what we have been through. But we have had a chance to learn from the past 5 or 6 years. I daresay that none of us—hopefully—is immune from the lessons of recent years—especially the senior Senator from Wyoming.

I can recall well how, in the first critical test of our role as leaders of the world in the 1950's, those of us in the liberal

community were groping for some middle ground in exercising our responsibility between the "massive retaliation" that John Foster Dulles was talking about on the one hand, which meant nuclear weapons, and "Fortress America" on the other.

It was then that we felt crowded into a position of at least weighing the dimensions of a limited, undeclared war. Our belief was that in the nuclear age we did not dare take the risk of a declared war unless it was total war. "The war, whatever that means, hopefully, that will never occur.

To fend off the holocaust of nuclear warfare on the one hand and the ridiculousness of such a policy as "Fortress America" on the other, we thought it was better to learn from World War II, from the experiences with Japan, which began to nibble at Manchuria and then to dominate Asia, which involved us in war as a result of Pearl Harbor; from the experiences with Hitler, who nibbled away at the Versailles Treaty until he occupied the Rhineland in violation of that treaty, and involved us all in world war at such terrible cost. So it is understandable that our generation sought some alternative. That alternative was a limited war without a declaration.

That is what I think poses the problem now with us today.

Under the Constitution of the United States, our Founding Fathers never envisaged such an exigency as that, and understandably so. They envisaged a declaration of war in what would be today an old-fashioned war. There are a great many gray areas in question as to the role of the Senate which derive from the circumstance of an undeclared war.

I must confess, as a student of the problem, that I am not sure to this day whether we, as a free society, can wage an undeclared war.

We are spending a great deal of time on this subject here today. We are caught up in where we are, for better or for worse. I think it would behoove us all to devote more of our energies, and all the foresight that we can mobilize to figure out how we best should conduct the role of the Senate in this nuclear age in its relationships with the President of the United States.

I made this petition last summer when we were debating the commitments resolution, feeling that it served no real cause to try to correct the past, or to repeal history, if you will, Mr. President (Mr. COOK); but, instead, to try to learn from the past, in setting up guidelines as to where we should go from here and how we best should proceed.

The problem that this becomes is one of definitions. Whatever else, however we got in there, whether it is right or wrong in each man's conscience, it would appear to me to be that the fact is: We are there. We are in combat. We have been in combat, at great cost and blood, for a long time. We cannot repeal all of that. Therefore, the question has to be, in the light of an undeclared war which is underway: What is the responsible role of the Senate?

I submit, Mr. President, that that role is not one of trying to tie the President's hands, to try to shackle his initiative, to try to curb his options, even as he is in the midst of trying to withdraw with responsibility. To me, that is the ultimate of foolishness, if not national irresponsibility.

I just think that the time of the Senate must be addressed to the potentials of the future. I do not think it should be addressed to the catastrophes of the past. It is too late for that.

Therefore, let us not hobble the President at this moment.

Mr. President, I would leave my fellow Senators with this one additional thought. A part of our difficulty comes from the earlier suggestions made by some of our colleagues here that, somehow, what was happening in Southeast Asia was a civil war between the Vietnamese. They were so confining it in their definitions, that it was Vietnam alone that was involved. The news media and all the others have fallen into that rut. They ignored the fact that it was a Southeast Asian affair, that it was an Indochina conflict from the very first.

Thus, we have seen the efforts to try to separate out of the picture Cambodia or Laos, as though they were somewhere on the moon, in the Sea of Tranquillity, and to contend therefore, that another series of events similar to those we have been through in South Vietnam was about to unfold.

Mr. President, we cannot isolate Cambodia from Vietnam, and we cannot isolate Laos from it. They were a part of the whole conflict from the very first. They have been involved in that conflict every day since the buildup in the Southeast Asian war.

Thus, to try now to pretend that Cambodia was somewhere else and unrelated, and that Laos was somewhere else and unconnected, does us a disservice. We play tricks on each other if we speculate in that context.

Thus, I would say, if we only could resolve in this body not to risk, jeopardize, or give away an opportunity for the President to slow down and disengage from this miserable conflict in Southeast Asia in some responsible way, we could be addressing ourselves instead, to what do we do in the nuclear age, the next time we are faced with this test. We will be faced with it. It will not go away, because we have resolved ourselves as to Cambodia and Laos, or whatever else. It will be here again. It may be here right now—in the Middle East, say. It may come in Burma. It may come somewhere else. We have no choice about those things. We cannot predetermine them. But, we are here in this world today. We are in the position which makes a difference as to how the world will go. I would hope, Mr. President, that we would, indeed, marshal more of our intellectual resources, of our capabilities in colloquy, of our honest search for the answers down the road ahead, rather than shackling the blame on the road behind in terms of what the Senate, under our constitutional system, should do.

I have no doubt that in terms of this war, that, had it been successfully concluded in a year or 18 months, Members of this body would have been bragging about how the Senate of the United States approved the Gulf of Tonkin resolution and participated in that decision, and they would be seeking the credit for that resolution; but, because of the mystery of the Orient, because of the vagaries of the new kinds of conflict that guerrilla warfare has raised in the East, and because of all the other pressures and the timetables in the world crowding in on us, it did not go as Republicans and Democrats would have preferred. It turned out to be much more complicated and much larger than partisan politics, even larger than Presidents of the United States, or the American people as a whole.

For that reason, I would express my desperate wish that we not take a step here that will, in fact, jeopardize the leadership role of the President of the United States as Commander in Chief in the midst of a conflict, when we should be readdressing ourselves to his proper role in cooperation with the Senate in all future such decisionmaking processes in the kind of world in which we live.

Mr. President, I apologize for intruding at this time of the afternoon. The Senator from Mississippi has been very generous in yielding this time to me, and I thank him very much.

Mr. STENNIS. Mr. President, I thank the Senator from Wyoming for his timely and fine remarks.

Mr. President, I want to yield the floor in a few minutes, anyway, but I have about a 1-minute statement to make at this time. Does the Senator from Wyoming wish me to yield to him?

Mr. HANSEN Mr. President, I would like to make some observations. If it would suit the desires of the distinguished Senator from Mississippi better, I would be very happy to wait until he has concluded.

Mr. STENNIS. Mr. President, I had indicated to the Senator from Idaho that I would yield the floor before very long. I think I should not wait too long. If the Senator has a question or two, I should be happy to yield to him for that purpose, but not for a speech.

Mr. HANSEN. Mr. President, I do not wish to make a speech at this time.

Mr. STENNIS. Mr. President, I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I express my sincere gratitude to my distinguished colleague, the senior Senator from Wyoming, for bringing this question back into perspective. I think it is very easy for us to lose sight of what we are talking about. I believe the observations the Senator has made this afternoon could not have been more clear.

I think what is bothering some Senators is that the President of the United States has the authority and responsibility and, I daresay, the exclusive authority and responsibility of directing our men in battle.

I grant that most of us are not privy to his next move. Apparently that is irritating to some. It is not to me. I happen to think that he must have access to information which obviously, for many good reasons, will be denied most of us.

We are not apprised of his next move. We do not know what will happen. We would like to be able to say, "Yes, we

knew what was going to happen, because we were called to the White House," or, "He appeared before the Foreign Relations Committee last week and said that he was going into Cambodia."

He has not done that.

We are fighting the same enemy that we have been fighting in Vietnam for the last several years, the very same enemy. It does not matter whether we are fighting him in South Vietnam or in Cambodia or in the South China Sea. Wherever it is, it is the same enemy.

The second point I make is that all the President did by ordering the incursion into Cambodia was to deny the enemy longer the exclusive decisionmaking responsibility of saying where we are going to fight. He no longer has that choice.

I think it was a very worthwhile move. I hope that Senators will be persuaded by the good logic and good judgment of the senior Senator from Wyoming and my distinguished colleague, the Senator from Mississippi.

Mr. STENNIS. Mr. President, I shall take just a minute or two and shall then yield the floor.

I know that a good deal has been said in all sincerity about the President's failing to contact and let others know about this movement into these sanctuaries.

It is very unfortunate, but there are many ways for information to get out. Those of us who are experienced around here could not conceive of a President, on a matter that he thought was delicate and where secrecy was of the utmost value to our side, coming before the Armed Services Committee or before any other committee or telling a great number of people about his plans.

There are times when things just have to be done in war and they have to be done in secrecy.

I want to make this further point. Mr. President, I stand on the proposition, not a constitutional matter about the war being declared or not declared, or strict construction or liberal construction of the Constitution.

I stand on the fact that for practical purposes this move into Cambodia against those sanctuaries and against this arsenal was necessary and it seemed certain to be necessary to that kind of withdrawal program of the men who are already there and doing the fighting.

It was the judgment of the President of the United States that this was a move to get us out of South Vietnam.

I say again that I am thankful he had the courage and the nerve to venture into this field that was uncertain politically and every other way. However, he thought it was necessary to carry a military point.

For us now to come along and to cut him down and to put restrictions on him because of a time element, I think, is wholly beyond our proper role. I do not believe that it will be done.

Mr. President, I yield the floor.

Mr. HANSEN. Mr. President, because of its pertinency to the question the Senate is considering, I ask unanimous consent that an editorial from the May 14 issue of the Washington Star be inserted in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PRESIDENTIAL POWERS

The Cooper-Church amendment, passed this week by the Senate Foreign Relations Committee, if approved by both houses, would cut off funds for future American military activities in Cambodia. The Senate and the House should give extremely careful consideration to all of the implications of the proposal.

Since the amendment could not come into force before the President's July 1 deadline for the return of all American troops from Cambodia, the proposal's supporters may be motivated by one or more of the following convictions:

1. They may fear that the President intends to violate his own deadline.

2. They may suspect that, if the Cambodian incursions are as successful as they appear to be, Mr. Nixon may be tempted to repeat the move at a later date.

3. They may feel that there is domestic political capital to be made out of a move which could be unconstitutional and in any event would be difficult administratively to enforce, and hence would be of little effect.

4. In an attempt to preserve and enhance senatorial prerogatives, they may wish to challenge the President's power to wage undeclared wars anywhere on the globe without prior congressional approval.

Both the State Department and the Pentagon are leery of the proposal, as well they might be. They see it as restricting the President's power as Commander in Chief and endangering his ability (in the State Department's words) "to take action to protect the lives of American troops within the Republic of Vietnam."

The issue is too complex to be dealt with adequately in this space. As a preliminary judgment, however, it is our view that passage of the Cooper-Church amendment in its present form would be unwise. The alternative to an undeclared war in at least some situations would be not peace, but a declared war. The existence of secret treaties between the nuclear powers and their client states under such circumstances would greatly increase the chances of a global holocaust.

And that is something no thinking person wants.

RESULTS OF THE CAMBODIAN SANCTUARY OPERATION

Mr. HANSEN. Mr. President, I ask unanimous consent that a tabulation of the results of the Cambodian sanctuary operation as of 8 a.m. May 15, 1970, be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Total operations		24-hour change
Individual weapons	8,102	+562
Crew served weapons	1,046	−25
Bunkers destroyed	3,410	+92
Machinegun rounds	6,867,639	+6,251
Rifle rounds	1,614,364	+1,327
Total small arms ammunition (rounds)	8,482,003	+7,578
Grenades	13,442	+599
Mines	1,448	+64
Antiaircraft rounds	4,072	(1)
Mortar rounds	13,857	+527
Large rocket rounds	874	+5
Smaller rocket rounds	8,980	+444
Recoilless rifle rounds	9,541	+123
Rice (pounds)	5,492,000	+494,000
Man months	120,824	+10,868
Vehicles	193	+15
Boats	40	(1)
Enemy KIA	5,614	+210
POWs (includes detainees)	1,478	+47

[1] Unchanged.

MANY HISTORICAL PRECEDENTS

Mr. HANSEN. Mr. President, I was astonished to read in the New Yorker magazine this morning an unsigned article stating that President Nixon is the first President "in the history of the United States deliberately to order American forces to invade another nation on his own, without seeking congressional approval and support."

This is the kind of flagrant and deliberate misstatement of fact designed to feed the flames of rhetoric which surround our present position in Southeast Asia. This, I believe, is a great disservice to the entire Nation and demonstrates the extremes to which some segments of the media will go in their zealous search for partisan advantage.

It has been indicated in the Washington Post, which reprinted the statement, that it was written by Richard Goodwin. I find this hard to believe because, of all people, Mr. Goodwin should know better. He was sitting in the White House at the time former President Lyndon B. Johnson sent American marines storming ashore in the foreign nation of Santo Domingo and then advised Members of Congress after it was a fact.

Mr. Goodwin claims to have read history. If, indeed, he wrote this particular article, he must be aware that it flouts every chapter of the history of 20th century America.

I recall for him, as did the senior Senator from Illinois (Mr. PERCY), yesterday on page 15519 of the RECORD, some historical facts.

Back in 1917 President Wilson sent American troops into Mexico in pursuit of the bandit, Pancho Villa, who was using Mexican territory as a sanctuary from which to launch attacks on American citizens and American troops. He did not seek prior congressional approval.

President Wilson sent troops into Santo Domingo in 1916, also without consulting Congress.

President Truman ordered American troops into action in Korea without prior consultation with Congress.

President Johnson, as I mentioned earlier, used American troops in Santo Domingo and consulted Congress only after he had moved.

President Johnson sent American planes to the attack in North Vietnam after the now-famous Tonkin Gulf incident in 1964—and reported to Congress the next day.

There have been incidents large and small over the years in which American Presidents, when American lives were threatened, have used American troops to protect those lives without first consulting Congress.

In none of these incidents was Congress consulted until after the act had taken place. Frequently, when secrecy and surprise are important, it cannot be, without endangering the success of the operation.

The debate is still going on in this Chamber about the prerogatives and responsibilities of the President. This debate has been going on for over a century and will go on as long as the Republic stands.

I do not feel that these discussions are well served by this kind of deliberate passion-arousing editorial comment.

CROSS-BORDER RAIDS WILL REDUCE CASUALTIES

Mr. President, it was with deep sorrow that I read the casualty figures for last week—168 Americans killed in action. It grieves me that this figure is the highest we have suffered in 8 months.

Many of these casualties are attributable to the American raids across the Cambodian border to wipe out the Communist sanctuaries. So far these raids have been remarkably successful. They have destroyed much of the enemy's present capability to mount the kind of offensive which he has mounted in Vietnam in the past.

We all remember the horror of the Tet offensive in early February of 1968, and the dreadful toll that it took. That offensive, which was launched from these very Cambodian sanctuaries, killed 943 Americans, and wounded over 4,000 Americans.

It is to prevent just this sort of free-wheeling, unpredictable attack across the line into Vietnam that the Cambodian incursions were inaugurated.

Whether or not these raids against enemy fire bases succeed depends not alone on the men—the brave young Americans—directly on the line and in battle. Their success also depends in a great sense on the support these men receive from back home. We cannot fail them now. We must not.

Mr. McGEE. Mr. President, the pending amendment, which would deny to the President the use of appropriated funds for the conduct of the war in Southeast Asia after specified cutoff dates, raises grave constitutional questions.

We find ourselves today at a point in our national life when feelings among the people are at high pitch, when vital segments of our society are split from the rest by discord and dissidence, when our Armed Forces are engaging an enemy. It is at this crucial juncture that we are faced with legislation calling upon the Senate to resolve in a few days' time a question of high national policy on which opinions throughout our history have been divided.

The amendment, in effect, states that U.S. war power resides in the Congress, that the power of the purse may legitimately be extended in such a way as to shape the course of a war in which we are already deeply involved.

I oppose this position. I believe the framers of the Constitution meant it when they said that the President shall be the Commander in Chief of the Army and Navy of the United States. I believe they meant it when they said that the Congress shall declare war, not make war. The language is clear.

However cloudy the issues may be surrounding an undeclared war in the nuclear age, the fact is that for several years we have been engaged in armed combat.

The authority to respond with speed and dispatch in foreign affairs when military force is required and regress after it has already been committed, should vest in the Office of the President. He is elected by all the people. He commands our military power. He has unique access to classified information. He has, and ought to have, the constitutional power to send U.S. military forces abroad when he deems such action to be in the national interest. Thus, the burden of the pending decision in this body is less that of the war in Southeast Asia, than it is one of political science; of responsible self-government.

My studies show political scientists agreed that, early in our history, if we had not seen the need for centralized control, the new Nation would have been split apart by rancorous factionalism.

The leaders of the Thirteen Colonies repelled by the arbitrary authority of the English king and his colonial governors, launched the Nation upon its new life without a chief executive. Events demonstrated the urgent need for central control when the new nation proved unable to deal with the chaotic overlapping of state jurisdictions resulting from the Articles of Confederation. National authority has been given the President ever since, with only weak Presidents shrinking from its use.

And so I find the present the wrong time to establish as congressional policy interpretations of the Constitution which 200 years of history do not substantiate.

Never in our history has it been a function of the Senate to advise and consent on operational military decisions made by the Commander in Chief.

Never in our history have we conducted a war by committee.

And on many different occasions prior to World War II, U.S. Presidents have ordered undeclared acts of war.

The Congress is the greatest deliberative body in the world, but as a military leadership group, notoriously unable to arrive at rapid decisions, it could become a multiheaded monster if it attempted to second-guess the conduct of a war.

The American people's distrust of the powers of the President, derived from our national memory of the tyranny of George III, becomes especially evident when a President's application of power in the national interest fails to yield immediate success. Particularly at those times, our ingrained distrust of centralized power becomes vocal. We hear cries that the President is becoming much too powerful. But when his use of his authority is successful, we tend to congratulate ourselves on his wisdom.

Today, only wishful thinking can lead to the notion that an assertion of congressional war power will resolve the problem of our involvement in Southeast Asia. I think we must recognize that our trouble there stems not from divided authority to conduct the war, but from the fact that so far we have failed to achieve our objectives.

In considering these grave questions, we must start from where we are. We cannot amend history. We cannot repeal it. We cannot, in good conscience, pin the rap on the past, charging the President with usurpation of power because our efforts have resulted in an apparently unwinnable war. No power has been usurped. On the contrary, historic precedent has been followed.

The Congress passed the Tonkin Gulf resolution in good faith, agreeing then on the course of action proposed by the President. And now, we do not enhance our stature if we blame the system, the division of powers, or Presidential deception for our tragic lack of success; and, so concluding, tie the hands of the Commander in Chief as he tries to deal with one of the most difficult military situations in our history.

I ask the Senate to reject the amendment but I thank its sponsors for reminding us that we must now shape a meaningful role for the Senate in determining the future direction of our foreign policy. As decrying the past is fruitless, so looking ahead can enhance the Senate's part in determining where we go from here. We must anticipate the next crisis; we must begin to address ourselves to restructuring the function of Congress in foreign affairs. Surely we can learn from the past; surely we must apply its lessons to the months ahead before it is too late.

Perhaps we should seek a sharper delineation of war power. Perhaps the future will require changes and redefinitions. I would be more than willing to explore all possibilities.

Clearly, we must address ourselves well in advance of crises to the broad outlines and directions of American policy. If we do this, we will have acted far more constructively and influentially than we would be curtailing the President's authority in the midst of crisis and after the fact.

Mr. CHURCH. Mr. President, although I was unable to be present during the earlier portions of this afternoon's discussion, I have listened with great interest to the debate during its final phases.

I must state frankly that I have been left to wonder what amendment is being discussed.

The arguments I have heard bear little relationship to the pending amendment as Senator Cooper and I drafted it. I believe it might be well to reconsider just what it is that this amendment does. In order to put an amendment of this kind in its proper perspective, often it is best to think about the things it does not do.

It does not raise questions about the credibility of the President of the United States. It accepts the President at his word. How that could possibly raise doubts in this body, in this country, and throughout the world is hard for me to understand.

The President has said to the American people and to the world that the Cambodian operation is limited in time, limited in scope, and limited to particular objectives. We in the Senate accept those limits.

All that the Cooper-Church amendment undertakes to do is to draw a line right where the President has drawn it in Cambodia. Our amendment limits the use of public money for certain purposes to go beyond that line.

That is not contradicting the President of the United States; that is merely asserting the right that properly belongs in the Congress.

If the President should decide in the future that he wants to carry out a policy committing the United States still farther into Cambodia, or if he should decide he wants to commit the United States to the obligation of defending the Cambodian regime with an elaborate entanglement through a military assistance program, he then should come back to Congress, make his case, and ask Congress to lift the limitations.

If that is a novel, unprecedented proposition, then I ask those who have raised questions about this amendment to consult the Constitution of the United States. I ask them to consult the history of the United States when time and time again Presidents have come to Congress before carrying this country into a foreign war and have asked for congressional consent.

Warmaking was supposed to be a shared responsibility. The framers of the Constitution did not conceive the Presidency to be an autocracy. They never intended that one man, as President, should have all the power to decide where, when, and under what circumstances the United States would fight. They never intended that he alone should pass upon the vital questions of war and peace which would involve the life or death of this Republic. No, indeed. The framers of the Constitution and Presidents for nearly two centuries, in adherence to the provisions of the Constitution, have recognized that Congress has its role to play, as well as the President, when it comes to the matter of war.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. CHURCH. Mr. President, I shall be happy to yield to the distinguished Senator from Florida. I know he has raised a particular question, and I do have some replies for him. I do not want to delay this matter further, but allow me to complete my thought.

A distinguished columnist, Mr. Tom Wicker, writing in the New York Times of May 14th, has put this question into its proper perspective, and, in light of the debate we have heard today on the floor, I would like to quote excerpts from the Wicker article, and then I shall ask that the entire article be printed in the RECORD. Afterward, I will be glad to yield to the distinguished Senator from Florida.

Mr. Wicker writes in part:

Thus understood, the powers of the Presidency should not be at issue in the controversy over the so-called Church-Cooper amendment to the military sales bill. That amendment would only prohibit the use of appropriated funds for a particular Presidential policy—that is, for retaining American forces in Cambodia, for supplying military advisers or mercenaries to the Cambodian Government or for any combat air support of Cambodian forces.

Congress clearly has the right to limit a President's policy in such a fashion—just as, for instance, it has the right to say that foreign aid shall be given in loans rather than in grants, or that most-favored-nation trade treatment shall not be given to certain nations. Last winter, President Nixon agreed to Congressional limitations on the use of groundtroops in Laos and Thailand. And no one would suggest that when a President asks Congress to *endorse* his policy—as in the Tonkin Gulf resolution or the Mideast resolution requested by President Eisenhower—Congress would not have the right to reject it instead.

Passage of the Church-Cooper amendment in the Senate alone would be a strong psychological limitation on Presidential policy; if the House adopted it also, it would be a legislative mandate. President Nixon could veto it, but that would seem to belie his own pledges to withdraw from Cambodia; besides, if the amendment can be passed in the House in an election year, a Presidential veto would probably fly dangerously in the face of public opinion.

Nevertheless, this would not be a restriction on *the powers of the Presidency*, and that is the essential point. Senator Hugh Scott pointed out the other day that the President's "power to defend the country" as Commander in Chief is indisputable; so is his duty to defend the lives and safety of American troops, and—in Browning's phrase—"to decide what are military necessities" and devise means to meet them. Nothing in the Church-Cooper amendment changes or can change that.

COMMANDER IN CHIEF'S RIGHT

For that reason, it would be superfluous to add to the amendment the exemption that the President could act in Cambodia when "required to protect the armed forces of the United States." That is always the Commander in Chief's duty and right and was, in fact, the justification invoked by Mr. Nixon for the Cambodian invasion. If he did not need the specific authority of such language two weeks ago, he would not need it in the future.

Similarly, what Mr. Nixon did in Cambodia then, he still could do—if as Commander in Chief he judged military emergency required it—were the Church-Cooper amendment to become law. That amendment would not make it impossible for the Commander in Chief to take extraordinary action when necessary or to give a "full, faithful and forceful performance" of his duties; rather it would place a limitation on Presidential policy that Congress is fully entitled to order.

Mr. President, I believe the Wicker piece is an excellent commentary on the basic constitutional questions at issue here, and it is of such quality that I ask unanimous consent that the entire article entitled "In the Nation: Curbing the Man, Not the Office," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IN THE NATION: CURBING THE MAN NOT THE OFFICE

(By Tom Wicker)

WASHINGTON, May 13.—As the Senate moves toward a vote on limiting military operations in Southeast Asia, a clear distinction needs to be made between *the powers of the Presidency*, on the one hand, and the particular policy of a particular President, on the other. About the first, Congress can do nothing by statute; about the second, it can do much, if it will.

The powers of the Presidency are stated and implied in the Constitution. That document states that the President is, among other things, the Commander in Chief of the Army and the Navy; and that statement implies a whole range of actions that a Commander in Chief must or may take.

Lincoln, for instance, construed his powers so broadly that, in Wilfred Binkley's description, in the emergency of secession he "proclaimed the slaves of those in rebellion emancipated. He devised and put into execution his own peculiar plan of reconstruction. In disregard of law he increased the Army and Navy beyond the limits set by statute. The privilege of the writ of habeas corpus was suspended wholesale and martial law declared. Public money in the sum of millions was deliberately spent without Congressional appropriation."

Lincoln was able to do this largely because, as his Senate spokesman, Browning of Illinois, brilliantly stated: "When the Constitution made the President Commander in Chief of the Army and Navy of the United States it clothed him with the incidental powers necessary to a full, faithful and forceful performance of the duties of that high office; and to decide what are military necessities and to devise and to execute the requisite measures to meet them, is one of these incidents."

PARTICULAR POLICY AT ISSUE

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Passage of the Church-Cooper amendment in the Senate alone would be a strong psychological limitation on Presidential policy; if the House adopted it also, it would be a legislative mandate. President Nixon could veto it, but that would seem to belie his own pledges to withdraw from Cambodia; besides, if the amendment can be passed in the House in an election year, a Presidential veto would probably fly dangerously in the face of public opinion.

Nevertheless, this would not be a restriction on the power of the Presidency, and that is the essential point. Senator Hugh Scott pointed out the other day that the President's "power to defend the country" as Commander in Chief is indisputable; so is his duty to defend the lives and safety of American troops, and—in Browning's phrase—"to decide what are military necessities" and devise means to meet them. Nothing in the Church-Cooper amendment changes or can change that.

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Similarly, what Mr. Nixon did in Cambodia then, he still could do—if as Commander in Chief he judged military emergency required it—were the Church-Cooper amendment to become law. That amendment would not make it impossible for the Commander in Chief to take extraordinary action when necessary or to give a "full, faithful and forceful performance" of his duties; rather it would place a limitation on Presidential policy that Congress is fully entitled to order.

Mr. CHURCH. Mr. President, I am happy to yield to the Senator from Florida.

Mr. HOLLAND. Mr. President, I have numerous articles bearing on that same point that I shall refer to later.

It was my understanding last night when we were about to adjourn that we were discussing in particular section 12 of the pending bill which was an amendment coming from the Committee on Foreign Relations. At that time, from a casual reading of that amendment, I was of the impression that it went much too far. At that time the Senator from Idaho offered an amendment, or a group of amendments which were to be considered en bloc, which he felt might correct the committee amendment which is section 12 in the bill.

I requested and the Senator from Idaho very courteously agreed that we would not have a vote upon this amendment last night so that we might see it as printed in the RECORD and might have a chance to decide what was the better course.

For the purpose of the RECORD, I will read the controlling part of section 12:

SECTION 12(a). Notwithstanding any provision of law enacted before the date of enactment of this section, no money appropriated for any purpose shall be available for obligation or expenditure—

(1) unless the appropriation thereof has been previously authorized by law; or

(2) in excess of an amount previously prescribed by law.

There are other parts of the amendment, but I think the Senator will agree those are the controlling portions. I noted from the report that the purpose of this amendment was to deal with a situation which existed late last calendar year when we were debating the foreign aid appropriations bill. I quote one section from page 13 of the committee report which reads as follows:

Section 12 is a product of the debate in the Senate last year concerning an attempt to appropriate $54,500,000 above the appropriation for military aid to provide F–4 fighter aircraft to the Republic of China.

Now, so far as the Senator from Florida is concerned, he understands that the purpose of section 12 is, as stated in the report, to prevent such a situation as occurred last year in which various items, not only the item for Taiwan, mentioned in the report, but an item for South Korea and an item for the school involved, all were in the foreign aid bill which were not authorized by the foreign aid authorizing legislation.

I would like to ask first whether I am correct in my understanding that the purpose of section 12 was to prevent the reoccurrence of that sort of situation by preventing items from coming into the appropriation for foreign aid that had not been authorized.

Mr. CHURCH. The Senator is entirely correct.

Mr. HOLLAND. I understand from reading the RECORD, that the amendments proposed by the Senator from Idaho, mentioned by him yesterday afternoon, and courteously withdrawn by him, provided as follows: The Senator from Idaho proposed that section 12 be modified by striking out, on page 9, line 1, the words "for any purpose" and inserting in lieu thereof "for foreign assistance (including foreign military sales)"; and, on page 9, line 8, inserting the words "for foreign assistance (including foreign military sales)" after the word "appropriation."

I understand, therefore, that the purpose of these proposed changes of section 12 of the bill, as offered by the Senator from Idaho, is to limit section 12 to matters under the jurisdiction of the Committee on Foreign Relations of the Senate and applicable to the foreign aid bill. Is that correct or not?

Mr. CHURCH. The Senator again is completely correct.

Mr. HOLLAND. Consequently, this restrictive language on appropriations would have no effect at all if the amendment suggested by the Senator from Idaho to section 12 were adopted with respect to Public Law 480, which deals with food for peace and is under the jurisdiction of the Committee on Agriculture and Forestry, or with other programs for which jurisdiction lies with other standing committees of the Senate. Am I correct in that understanding?

Mr. CHURCH. I again fully concur with the Senator.

Mr. HOLLAND. In addition to nullifying any appropriation for the Taiwan jets, or for the Republic of Korea—which is not mentioned in the report, and which was left in the bill last year—would this language apply to any other programs in the foreign assistance field?

Mr. CHURCH. Only those covered by the Foreign Assistance Act and the Foreign Military Sales Act.

Mr. HOLLAND. In other words, the sole purpose of section 12, if amended as now proposed by the Senator from Idaho, would be to make it improper, and indeed illegal, to include in the foreign aid bill——

Mr. CHURCH. In the foreign aid appropriations bill.

Mr. HOLLAND. In the foreign aid appropriations bill, items which had not been specifically authorized either in the Foreign Assistance Act or in the act providing for sales of military goods?

Mr. CHURCH. The Senator is correct.

Mr. HOLLAND. I call attention to the fact that there was an item last year in the appropriation bill which became law, which was not authorized, entitled "Hospital and Home for the Aged in Zichron-Yaakov" coming under the division entitled "American Schools and Hospitals Abroad," which was in the bill and which was not affected. Am I correct in that statement?

Mr. CHURCH. Yes. However, let me remind the Senator that with respect to authorizations for schools and hospitals abroad the Foreign Assistance Act simply authorizes a lump sum amount of money and does not undertake to specify particular schools. Although they are mentioned in the report, they are not listed in the legislation itself.

Mr. HOLLAND. I had understood that this particular item was not authorized. Perhaps I am in error. In any event, that item in the amount of $650,000 was allowed to remain in the bill.

I want to make it clear that if any amounts covered by that appropriation have not been committed or expended, or those covered by the Korean amount have not been committed or expended, they are not affected by the amendments now offered by the Senator from Idaho.

Mr. CHURCH. There would be no difficulty on either score, because with respect to the Korean item the total amount in the final bill did not exceed the total amount in the authorization legislation, and the same is true with respect to the school and hospital item. In neither case would this amendment, in its perfected form, affect either the Korean aid or the aid allocated to the particular school to which the Senator refers.

Mr. HOLLAND. In other words, there is no effort, in section 12 of the pending bill, if it be amended by the Senator from Idaho, to be retroactive in its effect upon any of the appropriations contained in the foreign aid appropriation bill of last year, even though there were these two rather important items which were not authorized.

Mr. CHURCH. The Senator is correct.

Mr. HOLLAND. I thank the Senator. I think he has taken a very constructive method of reducing the coverage of section 12 so that it does apply to the jurisdiction of the Committee on Foreign Relations, of which he is an important member, and does not becloud the jurisdiction of other committees and other fields of activity of the Congress.

Insofar as the Senator from Florida alone is concerned, he would have no objection to the adoption of the amendments as now suggested to section 12, nor to the adoption of section 12 if it be so amended. He does, however, want to remind his distinguished friend that that attitude by the Senator from Florida may not at all coincide with that of the body at the other end of the Capitol, because, as the Senator knows, by securing a rule against points of order from their Rules Committee the House places in bills, including the foreign aid appropriation bill, items which are not covered by authorization bills. The Senator is aware of that fact; is he not?

Mr. CHURCH. I am aware of it; and, of course, if this amendment, in its perfected form, is affixed to the Military Sales Act, it would have to be agreed to by the House of Representatives before it would have any effect.

Mr. HOLLAND. I thank the Senator for his courtesy. I think we understand each other perfectly.

If the Senator wishes to ask for the temporary setting aside of the principal amendment and the consideration of this amendment, at least the Senator from Florida would have no objection to following that course.

Mr. CHURCH. I would like very much to proceed. However, I am informed that the distinguished majority leader has an interest in this particular item, and he has asked that no action be taken until he can make some comments of his own. So, in deference to his wishes, we will not call for a vote at this time on this particular amendment. However, I am very glad that we have been able to work out the questions that the Senator from

Florida had in mind to his satisfaction. His support is important in obtaining the passage of this measure.

Mr. HOLLAND. The Senator from Florida's agreement to support section 12 as amended is no indication of his attitude with regard to other features of the bill. I would hope that the Senator did not have any such idea in mind.

Mr. CHURCH. That idea did not occur in even the tiniest part of my mind. Nevertheless, I appreciate the Senator's support with reference to section 12.

Mr. HOLLAND. I do think, since it appears that there will be no final action on the amendment this afternoon and that it will have to go over, it would be well to have clearly expressed in the RECORD just what the amendments mean and just how they will restrict—and I think they should restrict—the coverage of section 12 in the bill as it was originally intended.

Mr. CHURCH. Mr. President, while the distinguished Senator from Florida is still in the Chamber, perhaps I could raise with him another point that was of concern to him yesterday. The Senator will remember that yesterday afternoon he raised the question of whether captured enemy weapons were included in the definition of "excess defense articles" contained in section 644(g) of the Foreign Assistance Act.

I replied that, although the committee did not study this particular point, in my opinion the definition in the law was sufficiently broad as to embrace captured enemy weapons. The matter has been checked into further, as I promised the Senator it would be, and it is clear that captured weapons are considered like other public property and thus fall within the scope of the definition of "excess defense articles."

As to the application to Cambodia of the restriction in section 9 on the amount of surplus arms that can be given away without counting against military aid, there is no cause for concern. It would have no practical effect since the valuation of surplus arms, for purposes of this section, is "not less than 50 per centum of the amount the United States paid at the time the excess defense articles were acquired by the United States." Captured enemy weapons, of course, are not paid for in dollars and cents but in the lives of American soldiers. So the ceiling would not in any way limit the amount of enemy weapons that could be given to Cambodia or any other country, if that country were otherwise eligible to receive U.S. military aid.

Mr. HOLLAND. I thank the Senator. What disturbed me was this: The immense amount of small arms and larger arms and ammunition that has been reported as being captured in the raids into Cambodia indicated that there would be a very great logistics problem in getting them out. We have had indication also that Cambodian armed forces have very badly needed such weapons, and that already some of the captured weapons have been turned over to them, if the newspaper reports are accurate.

I would hope, if there are people there fighting the Communists, as we are, and they are in need of arms, and we have no use for those arms, that rather than go to the trouble of carting them out, which is an immense task, or go through the process of destroying them, which itself is an immense task, we would make them available to the fighting tribesmen.

I judge from what the Senator has just said that if the commander in the field and those in control of our operations in Southeast Asia decide that that is the wise course; this measure, if enacted, would not in any way prevent their so doing.

Mr. CHURCH. The Senator is correct.

Mr. HOLLAND. I thank the Senator. I am glad he has raised this additional point.

Mr. CHURCH. Mr. President, I call the attention of the Senate to an editorial entitled "Cambodian Withdrawal," published in the New York Times of May 14. It reads as follows:

CAMBODIAN WITHDRAWAL

The debate that has opened on the Cooper-Church amendment now gives the Senate a chance to vote a proposal that would bind President Nixon to his promise of withdrawing American troops from Cambodia. It would also make sure that he did not send them back without Congressional consent.

These reasonable objectives deserve reasoned discussion, not the "stab in the back" and "jubilation in Moscow" rhetoric employed in an attempt to discredit the amendment yesterday by some Administration supporters.

Administration arguments that the measure would hamper the President in his constitutional responsibility to take action to protect American troops merely confuse the issue. Nothing in the proposal would keep the President from carrying out the present Cambodian operation, all the more so since repeated statements by Mr. Nixon and Defense Secretary Laird assert that the operation is ahead of schedule and proceeding successfully. Mr. Laird, in fact, has publicly dismissed as unnecessary military pleas for more time to search for Communist arms in the sanctuary bases.

What the Cooper-Church amendment would do is cut off funds to retain American troops in Cambodia after the current operation is completed on June 30. It would also prohibit American advisers or air support for Cambodian forces.

However, the sponsors of the proposal have not attempted to bar limited arms aid for Cambodia nor American air interdiction of Communist supply lines through Cambodia to South Vietnam. Neither is there any attempt to rule out American air support to South Vietnamese forces should they return to Cambodia at a future date, although President Nixon has said that air support for the current South Vietnamese operation would halt by the end of next month.

The importance of the Cooper-Church amendment is twofold. It gives the Senate an opportunity to put on record the strong opposition within that body to a prolongation of military operations in Cambodia. And it would announce the Senate's determination to reassert Congressional prerogatives in foreign policy and defense, areas marked in recent decades by Presidential dominance—and tragic errors.

The real constitutional issue differs from the one the Administration is trying to make. The Constitution vests control over the nation's warmaking power in both the President and the Congress. No one can doubt the need for Presidential decisionmaking when split-second questions of nuclear war or peace may be involved. But there never has been such urgency in the Presidential decisions on Vietnam and Cambodia, now under challenge.

By adopting the Cooper-Church amendment and thus reassuring its right to be consulted before the country is taken into war again, Congress will strengthen not weaken the American position in the world. What Vietnam has shown is that it is a war undertaken without popular consent that undermines American credibility abroad, not the opposite.

This is as good a summation of the real question at issue here as any that I have seen.

A moment ago the Senator from Rhode Island (Mr. PELL) indicated that he might want to obtain the floor.

Mr. PELL. No; I just wondered whether the Senator would yield for a question or a query.

Mr. CHURCH. I am happy to yield.

Mr. PELL. I wonder if the Senator is as struck as I am with the fact that under our system of government it is rather hard, sometimes, for the people of our country to make their will known, if the President is in opposition.

Under a parliamentary democracy, we have the vote of confidence, and upon a failure in it, the representatives go back to the people. Even in the Soviet Union, certainly the opposite of a democracy, a committee form of government exists where, if there is a consensus within the committee that the head of government is going too far in an incorrect direction, he is quietly nudged aside, as we have seen happen to Mr. Khrushchev and his predecessors. But with our system, there is very great difficulty in the majority will expressing itself except at 4-year intervals.

We also have the question of what is the majority will. How do you weigh the intensity of feeling?

We have at this time, it seems to me, a very dangerous situation developing within the country, developing with great intensity of feeling—one might call it decibels, if such a term could be used relating to emotion—decibels of emotion of high intensity and high anguish on the part of many young people who believe they are not being heard, that there is no dialog or communication, and who want to see some action taken.

At the same time, I think there is a majority opinion in the Nation that somewhat apathetically believes these decisions are best left to the President alone—the old idea of "father knows best."

This is a situation that can lead to real confrontation and real violence, unless some means are found of permitting the high decibel emotions of our younger people also to vent.

To my mind, the adoption of this amendment, which I am so glad to be supporting, would be a very real step in the direction of letting those who feel that their emotions or their views are being expressed but are not being heard, believe that they are being heard.

Mr. CHURCH. I completely agree with the Senator. It would be a tragedy if the Senate were to fail to adopt an amendment that is as modestly conceived as this.

As the Senator knows, he and I have opposed this war for years.

Mr. PELL. If the Senator will yield on that point, I must throw a bouquet to the Senator from Idaho, because he was

earlier than I in his public opposition to this war, when very few had the courage to raise their voices. And, alas, some of those who did raise their voices are no longer with us—a fate that I hope does not await the Senator from Idaho and me.

Mr. CHURCH. The Senator is very kind.

Every time the American people have had a chance to express their commonsense judgment on this war out in the Balkans of Asia, they have said, "Cool it."

In 1964, the Senator will recall, the main issue in the election between Mr. Johnson and Mr. GOLDWATER revolved about the issue of the war. Mr. Johnson said again and again that Mr. GOLDWATER was trigger happy; he was a defoliator; he was inclined to rash judgment; and, furthermore, that Asian boys should fight Asian wars. Repeatedly, Mr. Johnson said he was not about to send American boys 10,000 miles to Asia to fight a war that Asians should be fighting for themselves.

Because of his campaign pledges, Mr. Johnson received an unprecedented landslide victory. Within a few weeks, however, he began to send American troops into Vietnam, which led Mr. GOLDWATER later to observe that Johnson had won the election and then adopted the Goldwater foreign policy.

Four years later, the American people again had a chance to express themselves on the matter of the war, which by then had grown into an enormous American engagement on the mainland of Asia, involving more than half a million American troops, costing in excess of $100 billion and nearly 40,000 lives, with a quarter of a million more Americans maimed and wounded. Again the American people had a chance to choose a candidate. And who was chosen? The man who assured the country that he had a secret plan for ending the war. I do not think anyone suspected that that would be Cambodia.

So there is reason for frustration. All these years have passed. Each time the American people have voted, they have tried to say to the President of the United States, "Our commonsense tells us this is a war we ought to end," as so many put it, "either win or get out." Neither has occurred.

As a result, millions of Americans have lost confidence in the institutions of the country, in the responsiveness of government to the people's felt need, even to the people's opinion. This, of course, is especially so as it relates to the young people who are being forced to fight this war, a war that millions of them believe to be an unnecessary, mistaken, even a wrongful war.

Mr. PELL. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. PELL. I recall the phrase of the Senator from Idaho—a very correct and just one—when he said a year or so ago that we, speaking here as members of the same political party, must wear the hairshirt for a while because it was under our party's auspices that this war moved up to its present grand scale.

I think that we also should give a bouquet to President Nixon, in that until a few weeks ago things were really getting better. The number of men in Southeast Asia in combat, and of our soldiers there, was less. The number of deaths was less. The number of engagements was less. We seemed to be going in the right direction—not so fast as the Senator from Idaho and I would have liked, but we were going in the right direction.

A few of us were a little worried that we might be left with a rather permanent Korea garrison situation there. But we could cross that bridge when we came to it. Then, rather suddenly, this event occurred a few weeks ago. This caused the excitement in the country as a whole, and it is for this reason that this amendment is needed so very much.

The President, quite honestly—this goes beyond partisan considerations—had done a much better job with regard to liquidating the war than our party had succeeded in doing for the several previous years.

Mr. CHURCH. Again, I want to say that I agree with the Senator.

I have had and have expressed my reservations on the Vietnamization policy. Nevertheless, I have always been at pains to point out that I found myself less opposed to the policy that Mr. Nixon seemed to be embarked upon than I had been previously opposed to Mr. Johnson's policy. The latter policy was one of escalating our involvement in the war and the former was one of deescalating our participation. All of that has now been thrown into the most serious doubts by the latest decision of Mr. Nixon to send American troops into a new theater of war in Southeast Asia.

Mr. PELL. Raising the question of Vietnamization brings up another point. While we do not want to see American young men killed, we do not want to see any young men killed, if possible. To put it very crudely, what Vietnamization really means is to substitute young Vietnamese being killed for young Americans being killed. While, as an American father, I think that is preferable, I do not think either is desirable particularly as it has become so much our war. The problem we face here is that if we had not intervened in the beginning, had permitted the election to occur that should have occurred in 1958, there would have been no war at all. So Vietnamization itself is not an end, and I think we should recognize that fact.

Mr. CHURCH. I agree with the Senator. I want to get back to the original point he made, that public confidence in our political institutions is at stake here. During previous years, the direction of protest, demonstration, and antiwar effort was pointed at the White House. When 250,000 young Americans came to the Capital last November, hardly any of them came up to Capitol Hill. They all turned their backs on the Capitol and went down and faced the White House. They recognized that we had permitted enormous powers to be concentrated in the President's hands, and unless they could convince the President, they had no chance. Congress was irrelevant.

That was the pattern of the protest until the distinguished Senator from Kentucky (Mr. COOPER) and I went to the press galleries a couple of weeks ago and suggested that the time had come for Congress to begin to use some of its power, so long overlooked, for the purpose of establishing the outer limits to American participation in this widening war. Ever since, for the first time, attention has been directed at Congress. Indeed, Congress has been rediscovered. The issue is whether we can summon up the resolution to use the powers which were meant to be not only lodged in Congress, but also exercised by Congress.

If we fail to do that, on a proposal so modest as the one now pending, which merely takes the President at his word and says, "No further, without coming back and making your case and securing congressional consent," then what are our young people going to think about Congress? Are they going to think that it is alive at all, or dormant?

Mr. PELL. If I may interject, I do not believe they have a very high opinion of Congress now.

Mr. CHURCH. If they do not have a high opinion of Congress now, it is because we have given little cause for them to feel that way. But, if, on this occasion, we can arouse ourselves from our lazy slumber, begin to assume our responsibilities to the American people under the Constitution, then I think that respect for Congress will rise again, and nothing could be healthier for the well-being of the institutions of this Republic.

Perhaps, in the long run, this revival will be more important than the actual limiting effect of the amendment itself.

Mr. PELL. If the Senator will yield to me for one last comment, it would also make apparent to the younger people that they can work within the system. Yet, what so many of them are concerned with is that they cannot see any signs of success from working within the system. They do not realize that some of their efforts can be counterproductive. But they are beginning to realize that violence, the kind which occurred at the University of Maryland yesterday, is counterproductive, that it turns middle America further "off," rather than further "on."

Another very interesting change in tactics, not in strategy, is the increasing realization of our young people that beards—which I have always rather envied but never had the courage to grow—long hair and weird costumes turn people more "off" than "on."

We find that perhaps, in part, because they see signs of possible success in this amendment, the young people are getting cut-rate haircuts now and are going around canvassing neighborhoods in support of the adoption of this amendment. We must remember that these young people, 30 years from now, will be the leaders in this country—not those who are sitting on their hands and doing nothing now—but this group will work within the system or will be pushed outside, and the leaders of this group, will have more conviction that they can work within the system.

Mr. CHURCH. I agree again with the distinguished Senator from Rhode Island. If we want to take the war protests off the streets, if we want to stop the violence, if we want to still the spirit of revolution on campuses north, south,

east, and west, the way to do it is to demonstrate that here in the Halls of Congress representative government still lives.

Mr. BYRD of West Virginia. If the able Senator will yield at that point, let me say that I may vote for the Cooper-Church amendment but not on that pretext.

Mr. CHURCH. The Senator's support for the amendment, if he so decides to vote for it, is very welcome indeed. But with regard to the argument I made as being a pretext, even though the Senator may——

Mr. BYRD of West Virginia. Let me say, if the distinguished Senator will yield, that I have not made up my mind as to whether I shall vote for or against the amendment. But, if I decide to vote for the amendment, it will never be because of threats of demonstrations, or violence in the streets, or on the campuses. If it is to be adopted on that basis, then I will not vote for it.

Mr. CHURCH. May I say, with respect to the Senator's statement, that I believe he misunderstands the point I made.

Mr. BYRD of West Virginia. I may have. I hope that I have.

Mr. CHURCH. If that is so, it is because I did not state it as well as I should have stated it.

Mr. BYRD of West Virginia. I thank the able and distinguished Senator from Idaho.

Mr. CHURCH. It was certainly not because Congress is bending to any such threats, but because the place to settle this question is in the Halls of Congress, not in the streets.

Mr. BYRD of West Virginia. I agree to that. Nothing can ever be settled in the streets, and there is no justification for riots, mobs, or campus violence.

Mr. CHURCH. That was the argument I was making. I may have left the wrong impression.

Mr. BYRD of West Virginia. I am sorry if I misunderstood.

Mr. CHURCH. I thank the Senator for bringing it to my attention.

Mr. BELLMON. Mr. President, will the Senator from Idaho yield?

Mr. CHURCH. I am happy to yield to the Senator from Oklahoma.

Mr. BELLMON. I have a couple of questions I should like to ask the Senator from Idaho, if he is agreeable.

I seem to sense, since the arguments made in the Senate in the last couple of days, a rather broad agreement on the objectives in Southeast Asia. I believe that everyone is agreed that we want to end the war and get our troops out of there as rapidly and as honorably as possible.

There seems to be a difference of opinion as to how this can be accomplished. I was pleased to hear the Senator say that the President of the United States has acted to cool the war there, with withdrawal of troops and the other steps which he has taken. But apparently there is a difference of opinion as to whether the action in Cambodia is, in fact, going to hasten disengagement or will prolong the war. That is the heart of the difference, as I understand it. Is that the way the Senator understands it?

Mr. CHURCH. Every Senator may have his own appraisal of the wisdom of the Cambodian venture. However, the purpose of the amendment is not to quarrel with the President on the stated objectives of the Cambodian operation. In other words, it establishes the same limits that the President himself has set on the policy. It does not attempt to argue the case for or against the wisdom of the policy.

Mr. BELLMON. Does the Senator from Idaho look upon the destruction of the sanctuaries in Cambodia as a new and different war or as a different phase of the same war? What is his opinion?

Mr. CHURCH. The sanctuaries have been in existence in Cambodia for many years. They are not new. They have been used by the Vietcong and the North Vietnamese as depots, as resting areas, and as bases for a long while. President Nixon had full knowledge of the existence of the sanctuaries at the time he developed his Vietnamization policy. In fact, 10 days before he sent American troops into Cambodia, he broadcast to the American people that the Vietnamization policy was working and assured the American people that he was confident it would succeed. At that time, and at all previous times, that policy had been based on acceptance of the existence of these particular sanctuaries.

I want to emphasize to the Senator that the sanctuaries have been in existence for a long period of time and that up until 2 weeks ago our policy had been based upon an acceptance of their existence.

Mr. BELLMON. My reason for asking the question was that if the Senator looks upon the Cambodian operation as a new and different war, I can understand his feelings that perhaps the President should have come to Congress and discussed the matter; but if it is simply a new phase of the same war, then, to me, it becomes a tactical decision which the Commander in Chief has complete authority, even the responsibility, to make. Does not the Senator agree with that feeling?

Mr. CHURCH. I believe that we could get into an argument over semantics when we discuss whether this is a part of the same war or is a new war. It is striking at sanctuaries which have long existed. In that sense, it is a part of an old war—a new opening in an old war. But in another sense, it is the opening of a new front. International boundaries are being crossed that had not been previously crossed in the war. This raises a whole new set of risks for the United States.

Mr. BELLMON. Mr. President, these boundaries have been crossed repeatedly by the enemy, I understand.

Mr. CHURCH. Yes. However, they have not heretofore been crossed by the forces of the United States. And the risks that are involved in this policy have to be considered by Congress. Up until now, the President has set very definite limits upon the operation. This amendment accepts those limits. If this were to become a first step in a deepening involvement of the effort in Cambodia, then I think the risks would be so grave that Congress should pass judgment upon the wisdom of such a new and deepening involvement. It would mean, or could mean, the assumption of a new national commitment to the defense of another foreign government.

It could mean the beginnings of an escalating military assistance program which could lead us, step by step, into the same kind of quagmire in Cambodia that exists for us today in Vietnam.

These are the risks. Yet, if Congress establishes an outer limit and then insists upon its right to participate in any decision that would extend our involvement farther into Cambodia, we reduce the risks.

Mr. BELLMON. Mr. President, it occurs to me that it was perhaps for this very reason that President Nixon has circumscribed the area that he plans to operate in in Cambodia, to ally these fears and concerns.

Therefore, I feel that, perhaps, the Senator's fears are not well founded. The President said very clearly that he does not plan to become involved in either a lengthy or a large war in Cambodia.

Mr. CHURCH. I agree with the Senator. The President's motives, sincerity, or purpose are not in question here. I know he does not want or desire to become deeply embroiled in Cambodia. I remind the Senator, however, that the whole history of this war is a succession of presidential decisions made, not just by the present occupant of the White House, but by his predecessors.

Each of these Presidential decisions has been taken with great sincerity. Each has been taken with the belief that just one further step would somehow solve the problem and permit us to extricate ourselves from further involvement in an interminable war.

Yet we have found that the validity of these decisions has not only been wiped out by subsequent experience, but that one experience tends to lead to another—and still another—in a sequence of events which completely mires us down in the Southeast Asian quagmire.

This happened in Vietnam, and each time, I remind the Senator, the President was perfectly sincere. Each time he thought that this one more step was all that would be necessary; each time events proved him to be wrong.

In the light of that experience, I think it is incumbent upon Congress not to permit the same sorry sequence to occur in Cambodia. There is a risk that it will. That is not a reflection upon the President's honesty or sincerity. It recognizes, however, the experience that we have had in the past and attempts to avoid that experience in the future.

Mr. BELLMON. Mr. President, I heard the view expressed by a Senator this afternoon that he did not trust the President. He feels that the resolution is necessary because he does not believe the things that President Nixon is saying. This is not the position of the Senator from Idaho.

Mr. CHURCH. No. It is not my position at all. I think that we should learn from experience.

Mr. BELLMON. I would like to say that I am one who does trust President

Nixon. I believe that he has kept his promises to the Senate and to the people of the country. I feel that he will do so again.

While I agree with the intent expressed by the Senator from Idaho, I look upon the resolution as, perhaps, an unintended but an unfortunate slap at the President, which may have a very detrimental effect upon the effectiveness of the President, whether the Senator intends it in that way or not.

Mr. CHURCH. Mr. President, I do not see how that could happen. I remember when Congress imposed certain limits upon the use of certain funds by prohibiting the introduction of ground forces into Laos and Cambodia. The President did not say that was a slap at him. In fact, he said that was in accordance with his expressed policy. He accepted the action of Congress and signed that limitation into law.

No Senator on that side of the aisle or on this side, or anyone outside the Halls of Congress or in the White House, indicated then that Congress had somehow affronted the President. I do not see how anyone can really argue that we now affront him by simply accepting his policy and saying, "These are the limits that we think ought to be set. You have declared the limits, and if at any later date you think that we should go beyond those limits, come back and present your case and ask Congress to lift the limitations."

I find it hard to see how an argument could be made that this action in any way constitutes a slap at the President.

Mr. BELLMON. Mr. President, the language the Senator used just now appeals to me a good deal. If that language could be included in the amendment and if we could say we support the President in the decision he has made and endorse the Cambodian operation, I think it would make a great deal of difference in the effect this would have upon the President's effectiveness and his ability to continue this operation as the Commander in Chief.

The very fact that Congress passed a resolution last year that said to the President, "We shall not become involved in military operations in Laos or Thailand," and did not specifically mention Cambodia, could be interpreted, it seems to me, as the green light to go into Cambodia if the President saw fit to do so, which he has now done.

Could the Senator tell me why Cambodia was not included in the resolution?

Mr. CHURCH. Yes. I remember it very well. At the time, no one conceived of an American military operation in Cambodia. The Cambodian Government was then seemingly secure under Prince Sihanouk. He had pursued a neutralist policy. Indeed, we had reestablished relations with his Government—and that had been done, incidentally, under President Nixon—and we had, in so doing, accepted the neutralist policy and position of the Cambodian Government.

No one conceived then that any military operation would be undertaken against Cambodia, and I am sure that none was even contemplated at the time. But if anyone had suggested it on the floor of the Senate that day, I am quite certain that a majority of Senators would have been willing to vote the same restriction against the use of American ground forces in Cambodia, as was voted for Laos and Thailand.

I think that is the explanation. The CONGRESSIONAL RECORD of December 15, 1969, will bear that out.

Mr. BELLMON. Mr. President, if that is the case, I would certainly feel that it was fortunate that the President did not find it necessary to come to the Senate and ask for permission to go into Cambodia, because that would have certainly resulted in lengthy debate, would have given our enemy ample time to strengthen his defenses, and undoubtedly would have cost this Nation heavily in deaths and suffering for men engaged in South Vietnam.

I shall make one further comment; then I shall not take any more of the Senator's time. I agree with what the Senator from Idaho said he is attempting to accomplish by the resolution, but I seriously doubt the wisdom of trying to set the President's feet in concrete in the way this resolution would.

The fact that a year ago we were not able to anticipate what might happen in Cambodia and therefore did not foresee the necessity of including Cambodia in the prohibitions on military action in Laos and Thailand indicates to me that these are uncertain times; and no one had the vision to look ahead to see what could develop in the months and years from then.

I think President Nixon has adopted a plan for winning the peace in Southeast Asia for a long time to come. Even if I did not think so I would not vote for this resolution, since I think it would damage President Nixon in his efforts to find a way for peace in Southeast Asia.

BAD ARGUMENTS BY INTELLIGENT MEN

Mr. President, many years ago the distinguished priest and scholar, John Courtney Murray, wrote an article entitled "The Bad Arguments Intelligent Men Make." I have forgotten what the substance of the article was; but the title seems to me to be perfectly applicable to those who support the Cooper-Church amendment. They are distinguished, loyal, and intelligent men; but, in my opinion, they have made a bad argument in seeking to deny to the President the funds needed by him to carry out his responsibility as Commander in Chief to take measures he deems necessary to insure the security of the U.S. forces in the field.

Before I attempt to refute the argument that is at the heart of this amendment, let me first present certain facts relating to the present Cambodian action in particular and to constitutional responsibilities in general. These facts are so obvious that it may seem a waste of time to repeat them, yet, they are essential to full understanding of the situation.

First, the United States of America at this moment has military operations being conducted in Cambodia. American servicemen are there now. It is essential to establish this obvious point, for on it hinges an important constitutional consideration to which I will refer later.

Second, the Constitution of the United States has distributed between the executive and the legislative branches of government various powers relating to the procurement and deployment of the Nation's Armed Forces.

Congress is given the power in article 1 "to raise and support Armies," and "to provide and maintain a Navy." The same article provides that Congress may raise money to "pay the debts and provide for the common Defense and general Welfare of the United States" and that "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law." Finally, of course, Congress is given the power to declare war.

As for the executive branch, the Constitution provides that:

> The President shall be Commander-in-Chief of the Army and Navy of the United States.

Basic, elementary facts, one of the present—we now have troops fighting in the field—and two historical—the constitutional provisions pertaining to the legislative and executive responsibilities in regard to our Armed Forces.

Now, keeping these basic points in mind, let us examine the Cooper-Church amendment. It is important enough to give its fundamental points in detail.

I quote from the language of the amendment:

> "SECTION 47. Prohibition of Assistance to Cambodia.
>
> "In order to avoid the involvement of the United States in a wider war in Indochina and expedite the withdrawal of American forces from Vietnam, it is hereby provided that, unless specifically authorized by law hereafter enacted no funds authorized or appropriated pursuant to this Act or any other law may be expended for the purpose of:
>
> 1. Retaining United States forces in Cambodia.
>
> 2. Paying the compensataion or allowance of, or otherwise supporting directly or indirectly any U.S. personnel in Cambodia who (a) furnishes military instruction to Cambodian forces; or (b) engages in any combat activity in support of Cambodian forces.
>
> 3. Entering into or carrying out any contract or agreement to provide military instruction in Cambodia, or persons to engage in any combat activity in support of Cambodian forces.
>
> 4. Conducting any combat activity in the air above Cambodia in support of Cambodian forces.

Now, apart from the obviously dangerous limitations put on Presidential action, this amendment would have other adverse effects.

The headlines "Prohibition of Assistance to Cambodia," which is the title of section 47, would deal a very great blow to the Lon Nol Government.

The effects of passage upon the upcoming Djakarta Conference of Asian Nations would be very bad. We now have hopes for some quite positive results from this Asian initiative. In my opinion, passage would almost assure the failure of the conference.

The encouragement that passage of this amendment will give to the enemy will probably mean that a final negotiated settlement will be substantially delayed.

Putting the enemy on notice, by this amendment, of just which options we have denied ourselves, means that they can deploy their forces and direct their efforts much more efficiently, with a consequent increase in U.S. casualties and a possible slowdown in the withdrawal timetable.

I know that to some of the distinguished and intelligent men, even these adverse effects—clear as they are—would not seem sufficient reason to prevent such an amendment.

That is why I am convinced that a Constitutional argument can and must be made to demonstrate the inadvisability of the Cooper-Church amendment. What it would do to our men in the field and to the entire situation in Indochina is, to me, regrettable; but perhaps even equally regrettable is what the amendment would do to the Constitution of the United States and its clearly defined division of powers.

The Constitution assigns to the President alone the responsibility of Commander in Chief, and this gives him the duty to take those measures that he deems necessary to insure the security of the United States forces in the field. This amendment would represent an interference with the Executive Power granted to the President in Article II. The President cannot accept the denial of legitimate options that in some contingencies he may judge necessary to fulfill his Constitutional responsibilities.

There are those who question the authority of the President to send troops into Cambodia without approval of the Congress. Perhaps the Congress should re-examine the process by which this nation goes to war. However, to undertake to do this at a time when mens' lives are in jeopardy on the battlefield is to place them into even greater danger and to invite national chaos at home.

The fact is that there is a long line of precedents in which the Presidential power as Commander in Chief was exercised so as to cause American armed forces to engage in hostilities with the armed forces of another nation without a declaration of war by Congress. Presidents McKinley, Taft, and Wilson took actions of this sort, and, of course, the action taken by President Truman in Korea is the most well-known example.

But the Cooper-Church amendment speaks to a fundamentally different point: its ultimate danger is not in that it seeks to deny funds to carry on the war, but in that it raises the question of the Constitutional distribution of powers between the Congress and the President.

This amendment would seek, by attaching conditions to appropriations bills, to regulate the disposition of armed forces already in the field.

Such conditions would be militarily and constitutionally disastrous. I cannot imagine any Congressman voting to stop a President from attempting, by tactical moves, to break the will of an enemy against which we have already sent troops in the field. Indeed, Congress has never, in almost two hundred years of its existence, taken such an action. Why? Because Congress has known—and I am deeply convinced knows today—that it is the prerogative of the President to determine the best methods to assure the safety of our national forces.

In effect the Cooper-Church amendment is an attempt by Congress to make short-range, tactical decisions as to how a military operation should be conducted.

Those who claim that the President's actions violated Cambodia's neutrality must be reminded of an elementary principle of international law: if a neutral nation, invaded by a foreign power, has not taken sufficient means to rid itself of that power, any nation threatened by the invaders has the right to use military force to protect itself. In short, Cambodian neutrality was violated by the North Vietnamese not by the Americans; the Cambodians did little or nothing to stop this violation over a period of years; the United States has every legal right to damage the power of the invaders of Cambodia, since that power is being directed at our troops.

The Cooper-Church amendment is another example of good intentions leading to bad conclusions. The Senators who back this measure want an end to war. But I cannot think of a more damaging and ultimately catastrophic method of ending this war than to bring about a Constitutional crisis and to confuse our troops in the field by delegating to the myriad voices of Congress the Constitutional responsibility that should and must sound from the strong voice of the President.

Mr. CHURCH. Mr. President, I thank the Senator for his comments. I want to reply once more that the Cooper-Church amendment is consistent with the Constitution. The Constitution states that the responsibility for war should be shared by Congress with the President. The effect of our amendment would simply be "If you want to go beyond the boundaries which you have set and thus involve the United States in a still deeper war in Indochina, then it is proper for you to come back to Congress and make your case."

That is what the Constitution intended. Why Congress abdicated from its role, I am unable to justify. This is a reassertion, it seems to me, of a prerogative that belongs in Congress, and we must not let it atrophy. If we do, the time will come when this Republic will die the way the Roman Republic died. When the Roman Senate failed to assert its responsibilities, the aggrandizement of power brought the Roman Emperors to control the Government.

I would not want to see that happen in the Senate of the United States, yet there is much evidence the same thing is happening to us as happened in the Roman Senate many centuries ago.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, does the able Senator yield the floor?

Mr. CHURCH. I yield to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

ORDER FOR ADJOURNMENT TO MONDAY, MAY 18, 1970

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE PRESIDENT OR THE HOUSE OF REPRESENTATIVES AND FOR THE ACTING PRESIDENT PRO TEMPORE TO SIGN DULY ENROLLED BILLS DURING THE ADJOURNMENT OF THE SENATE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to receive messages from the President of the United States or the House of Representatives, and that the Acting President pro tempore be authorized to sign duly enrolled bills during the adjournment of the Senate until Monday, May 18, 1970.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS TOGETHER WITH MINORITY, INDIVIDUAL, OR SUPPLEMENTAL VIEWS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that during the adjournment of the Senate until Monday, May 18, 1970, all committees be authorized to file reports, together with any minority, individual, or supplemental views.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT OF SENATOR WILLIAMS OF NEW JERSEY ON DEATH OF JOHN GRAVES, FORMER ASSISTANT SECRETARY TO THE MAJORITY

Mr. BYRD of West Virginia. Mr. President, I have been requested by the able Senator from New Jersey (Mr. WILLIAMS) to ask unanimous consent, and I do so now, that a statement by him with respect to the death of John Graves, former assistant secretary to the majority, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR WILLIAMS OF NEW JERSEY

It was with a deep sense of sorrow that I learned of the sudden death of John Graves, former assistant secretary to the majority. During his 6 years of service in this key post, his great ability and charm won him many friends. Working long hours and always under the pressure of Senate business, his courtesy and sense of humor were unfailing. I, for one, relied on his judgment and advice on many occasions and always found his assistance invaluable.

It was a loss when his difficult health problems forced him to leave the staff of the Senate, an institution which he had served so loyally and loved so well. His sudden death at a time when he was looking forward to a new career is a genuine tragedy. My deepest sympathy goes to his wife, Karen, and to his children, Cody and Caroline, to whom he was a devoted and loving father. As they grow older, they can take genuine pride in their father who, in a life so untimely ended, served his country well.

IRRESPONSIBLE MILITANTS TAKE OVER OFFICE OF SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Mr. BYRD of West Virginia. Mr. President, I was shocked and dismayed to read in the press on Thursday that irresponsible militants had been allowed to take over the office of the Secretary of Health, Education, and Welfare. Text and pictures described the bizarre event, with one photograph showing an insolent interloper lolling back in the Secretary's chair, his feet propped on the Secretary's desk, with Mr. Finch sitting elsewhere.

Mr. President, what is happening to our country? Are Federal officials now expected to turn the other cheek to every insult that is heaped upon them? Is there no end to such senseless appeasement?

There will be no end to such appeasement unless men in positions of responsibility respond vigorously to challenges such as this. Secretary Finch may have been well-intentioned in seeking to give the intruders in his office an opportunity to speak, But, if the press reports are correct, nothing was accomplished by his tolerance except to reinforce the general impression that now exists that a mob can get away with anything it wishes to do.

These people came bursting into his private office, occupied it, took over the telephone and instead of attempting to establish any meaningful dialog about their problems—or his—they shouted down everything he had to say. Much was made in the press of his forbearance. And I am sure it did take cool nerve to sit there and take the abuse he took from the invaders.

But likeminded hoodlums would be considerably more impressed, I am sure, if he had had the intruders bodily thrown out. I would not expect him to attempt to do it. That is what we have police and security forces for—to preserve order. Government cannot function—just as our colleges and universities cannot function—when mobs are permitted to take over and do whatever they want to do.

It should be obvious to even the most unobservant, Mr. President, that people of the sort who accosted Mr. Finch will go as far as they are permitted to go. There is no give and take with them. It is take, take, take—while everybody else is expected to give, give, give.

This country has had enough of the namby-pamby treatment of people who have no respect for the necessary, orderly, social and legal and constitutional processes. A little righteous indignation is called for. The soft answer will not turn away wrath when the object of those who are shouting is simply to create confusion and disorder and fear.

I was as much encouraged to read in the papers of a Virginia college president's response to hooliganism this week as I was discouraged by Mr. Finch's response to it.

At Virginia Tech, at Blacksburg, President T. Marshall Hahn, Jr., ordered the immediate arrest and suspension from the university of a hundred campus protesters who seized a building and occupied it overnight. "Anarchy must be dealt with," he said, and he is right.

Not only did this courageous college head clear the building forthrightly; he also notified the students to get their belongings and leave, and further told them that if they came back on campus they would be deemed trespassers. This is good if this college president does not backdown—as so many other have done.

Clearly the people who seized the HEW Secretary's office were trespassers, and in my judgment they should have been dealt with as such. There is no point in dignifying and condoning trespass by pretending that it provides some needed forum for an exchange of viewpoints. It does nothing of the sort.

Whatever "exchange of views" went on in Mr. Finch's office will, in the longrun contribute more to our problems than to their solution. If citizens wish to express their views to officials of Government—and this they most certainly have the right to do—they should do it in an orderly and civilized manner. We have had enough of talk-ins and shout-ins, and we do not need any more HEW-ins.

It is not too late, Mr. President, for strong leaders to reverse the tide that is running against civilized institutions, but the hour grows late.

The episode in the HEW Secretary's office ought to be a warning to all, not only of what can happen, but what almost surely will happen, unless Government officials end their pusillaimous pussyfooting on questions of law and order.

I do not wish to be overly critical of Secretary Finch. The indications are that he did what he thought was the best thing to do under the circumstances. Second-guessing at a distance is easy when one is not suddenly faced with such a situation as he faced. The point I wish to make is not one of personal criticism. It is, on the contrary, the fact that the great mass of our people are often ahead of their representatives in Government on many important issues, and I believe that the people are ahead of the Government now in their desire and determination to bring about the restoration of a lawful and orderly society.

The American people, I believe, are thoroughly fed up with disturbances, disorder, and destruction, and they want an end to these things. The sorry spectacle of a Cabinet officer being treated as a subservient hostage in his own office by a rag-tag band will not be reassuring to them.

Mr. President, in saying this, I realize that any public official who speaks out against this sort of mob rule runs the risk of being subjected to the same kind of outrage. But it is not our duty to remain silent for fear of having recrimination visited upon ourselves.

When members of such a rag-tag band come into one's office and try to take it over, as they took over Mr. Finch's office, it is one's responsibility as a public official to have such intruders promptly and unceremoniously removed by the police. If we do, we will have less of it in the future. I think it is long past the time—if there were ever a time—when representatives of the Government should timidly submit to this kind of abuse and harassment. The longer we put up with it, the more we will have of it.

I ask unanimous consent to have printed in the RECORD the news story entitled "Finch Takes Abuse Calmly as Protesters Seize Office," written by Haynes Johnson, and published in yesterday's Washington Post.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FINCH TAKES ABUSE CALMLY AS PROTESTERS SEIZE OFFICE

(By Haynes Johnson)

Robert Finch had ben speaking with two reporters in subdued but serious tones yesterday about the gravity of American problems at home and abroad when the door to his office suddenly burst open.

"Can I help you?" the Secretary of Health, Education and Welfare said, rising from a chair in a corner of the room with a startled look on his face. There was no response as a group of 17 protesters, black and white, young and middle-aged, men and women, took command of his office. They had "liberated" it.

For the next hour, while Finch sat calmly listening and occasionally responding, the group denounced him personally and the Nixon administration generally. They appropriated the Secretary's desk and his telephone, shouted angry warnings and railed against American intervention in Cambodia and the lack of money to deal with domestic problems.

The group was led by George Wiley, executive director of the National Welfare Rights Organization, and included among its ranks a number of welfare mothers from Philadelphia and several students from American University in Washington.

Also in the group were Beulah Sanders and Etta Horne, leaders in the welfare rights group.

"This is one of our ways of striking at the administration's policies," Wiley said. "We've liberated Secretary Finch's office."

Throughout the hour, Wiley sat in Finch's large chair behind his desk using the Secretary's telephone while Finch remained seated in an easy chair next to a sofa across the room. Several times, when the phone rang an HEW aide took the phone from Wiley to answer Finch's calls. The aide also nervously turned over copies of letters and memoranda on Finch's desk.

Finch himself remained coolly unperturbed no matter how loud the language or abusive the words. The only visible display of emotion was when he gripped the arm of his chair tightly at a particularly angry retort.

Finch was talking to two reporters from The Washington Post about recent critical events when his office was taken over.

Wiley began the confrontation by telling Finch that the American intervention into Cambodia was a case of spending more U.S. dollars for death. "We're here because we're worried about money for life," he said.

Some protestors carried leaflets saying "stop the war and feed the poor"; others wore welfare rights campaign buttons carrying the slogan "5500 or fight." That refers to the organization's demand for a guaranteed annual income of $5,500 for a family of four. The Nixon administration has proposed a plan that would include a $1,600 annual minimum income for a family of four.

Although the group demanded that Finch and the administration adopt its plan, the discussion ranged far beyond that one issue.

"Secretary Finch, do you have children?" one black welfare mother asked.

"Yes," he answered quietly.

"Would you like to see your son be sent to a war that he might not come back from without even a just cause?" she said.

"I'm as anxious that we terminate this war as you are," Finch said, in even tones.

"What are you going to do about it?" he was asked.

He attempted to explain that he understood how they felt, and that he was convinced President Nixon's Cambodian decision would shorten the Vietnam war and bring home Americans sooner. They were not persuaded.

He was accused of being a "flunky for President Nixon," and was asked:

"Are you afraid of Nixon?"

"No," he said.

The Secretary was asked again about his view on the larger guaranteed annual income, and he replied:

"I'm proud of the part I've played in getting this welfare reform started."

Again, the subject of the war intruded. The

Nixon administration was sending young Americans to die overseas while other Americans were dying of starvation here at home, one woman said loudly.

"All I can say to that is I want that war over as badly as anyone in this room," Finch said.

The remarks from the protesters grew angrier—and noisier. Many were speaking at once.

"Our leadership in this country is failing the people, and this country is heading for destruction," one woman shouted.

"What would you do if one of your children had been one of the Kent students?" another cried.

"I hope when they drop the bombs they drop one right here on this office, and one right on the White House," said another.

There were remarks about "Tricky Dickie" and about the President being "sick in his head," about genocide and official repression, about crime and narcotics, schools and the cost of living, unemployment and the high cost of sending men to the moon.

Over and over, Finch was accused of being a "yes man," or a "puppet" for the administration.

"Be your own man," he was told more than once.

At one point, Finch began to respond by saying, "If you don't think I realize these problems are so deep and real then . . ." But his answer was lost in the rising response of the protesters.

Finch never raised his voice. Nearly an hour had elapsed when he asked: "Who else has not had a chance to speak here?" By then, the first group had been joined by nine more protesters. Several spoke up about the same points that had been raised previously.

Finally, Finch stood up. Several minutes later, at about 12:35 p.m., he walked out of the room. As he left, a woman shouted out of his window, "power to the people."

The group remained, insisting they would not leave until the war in Indochina is ended and the $5,500 annual income figure is met. Later in the afternoon, Finch met with two members of the group and received a list of demands.

Last night, 21 demonstrators who refused to leave were arrested and charged with disorderly conduct. In a statement issued by HEW, Finch said:

"This is a department concerned with the general health, education and welfare of 204 million Americans—including the poor. Today's attempt to disrupt the business of the department was counterproductive."

Earlier, outside his office, Finch had summed up the day to a reporter by saying:

"It's very difficult. I like to let them have a chance to sound off. It's hard for them to see all the complexities. Some of them are genuine hardship cases, and some are hardcore exploiters.

"I keep trying to tell them: I'm doing what is politically possible."

Mr. BYRD of West Virginia. Mr. President, I also ask unanimous consent to have printed in the RECORD a story which appeared, likewise, in yesterday's Washington Post, written by Nancy L. Ross, and which has reference to a pie-throwing incident which occurred on Capitol Hill when a young witness shoved a whipped cream pie in the face of a gray-haired member of the U.S. Commission on Obscenity and Pornography.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PORNOGRAPHY AND PIE: OBSCENITY HEARINGS ON CAPITOL HILL

(By Nancy L. Ross)

Rhetoric gave way to slapstick on Capitol Hill yesterday when a young witness shoved a whipped cream pie in the face of a gray-haired member of the U.S. Commission on Obscenity and Pornography.

The pie-thrower was 28-year-old Thomas K. Forcade, projects coordinator for the Underground Press Syndicate, which claims to represent 200 radical press members with a circulation of 6 million. He was protesting "this unconstitutional, unlawful, prehistoric, obscene, absurd, Keystone Kommittee."

The victim was Dr. Otto N. Larsen, professor of Sociology at the University of Washington. He held his temper and even managed a weak smile as the whipped cream dripped down the left side of his face and onto his shirtfront.

Forcade had been invited to testify at the commission's final public hearing at the New Senate Office Building.

The bearded witness, who calls himself a minister of the Church of Life, arrived with about a dozen followers, dressed in hippie garb. While they passed around copies of underground newspapers, Forcade read a prepared statement strewn with obscenities and demanding complete freedom of the press. Every other paragraph ended with the refrain, "F— off, and F— censorship!"

During a momentary silence the 3-year-old daughter of one of Forcade's group startled the Commission by echoing the first phrase of the refrain in a not-so-wee voice.

After finishing his statement, Forcade put on a record of Bob Dylan's "Something is happening, but you don't know what it is, do you, Mr. Jones?" The Commission's Chairman William B. Lockhart asked him if he had anything more to say, adding, "I would rather listen to you talk than to the record." Forcade replied he was allowed 20 minutes by the commission's rules and that the music was part of his testimony. Two of the commissioners tried to suppress smiles, while the other seven sat in stony silence or looked at their watches.

Forcade denounced the commission in these words: "This Keystone Kommittee, engaged in a blatant McCarthyesque witch hunt, holding inquisitional 'hearings' around the country is the vanguard of the Brain Police, Mind Monitors, Thought Thugs, Honky Heaven Whores grasping to make thought criminals out of millions of innocent citizens. You are 1984, with all that implies."

For a moment it seemed more like the movies of the '20s.

When Larsen challenged Forcade's charges, the latter brought a large box to the front of the room and started passing out leaflets hailing "Pie Power!" These quoted old-time moviemaker Mack Sennett on pie-throwing techniques. Then, from about one foot away, Forcade pushed the gooey white mess in Larsen's face.

Two policemen nearby were caught off-guard. Larsen calmly muttered something about not wishing to engage in a "physical altercation" with Forcade and went off to wash.

Later Larsen termed it a "minor incident" but added he was "glad he (Forcade) did what he did in response to my question because it suggests on which side the inquisition is being held." He said that as a university professor he had had considerable experience with (such youths) and stood up to them because he was "not going to let them run the show."

Forcade walked out of the building in the company of police but was not arrested.

The incident topped off a lively day on which commissioners heard from a broad spectrum of citizens. They included not only concerned parents, but also a member of a nudist organization, an unwed black mother and an evangelist.

Paul Burnett lamented that the last of the "family" nudist magazines had gone out of business April 1. Rose Crawford, who introduced herself as an "unemployed, alienated unwed mother," deplored the absence of blacks on the commission. (She erred; there is one black.) She noted nothing had been done about (the smut shops) on 14th Street "until the black community took it into their hands" (during the 1968 riots).

Most of those who characterized themselves as concerned citizens testified in favor of stronger controls or stronger enforcement of existing laws on obscenity and pornography.

One housewife, and mother of three, aged 4 to 14, took an opposite viewpoint. Mrs. David Suddeth of Bowie, Md., contended that since obscenity cannot be defined, it should not be the object of any legislation. "I find violence much harder to censor for my children than sexuality would be because there is so much violence in the mass media. Sexual pleasure and depictions thereof are not evil or obscene, and I do not hide them from my children."

In essence, she agreed with Dr. Mary Calderone, executive director of the Sex Information and Education Council of the U.S. Mrs. Calderone astounded at least one member of the commission by stating "Playboy magazine is very good sex education."

When the Rev. Winfrey C. Link, a Methodist minister from Tennessee, asked whether he had heard correctly, she said she knew many physicians who encouraged adolescents to read it.

Dr. Calderone explained it was good sex education to picture a woman's body as beautiful and to discuss Playboy philosophy because she knew that children saw through the sex-as-a-plaything concept and repudiated it.

A considerable part of the testimony yesterday concerned the lack of evidence to support a conclusion that exposure to pornography leads to antisocial behavior. Mrs. Walter V. Magee, president of the General Federation of Women's Clubs, which include 6 million members across the country, said she was convinced of the relationship even without a study and urged the commission to set up community guidelines on smut.

At one point she told of a GFWC program whereby club members buy two copies of magazines suspected of being salacious, read them and make a complaint. Dr. Larsen quipped that enough women of this type could keep the pornographers in business.

John Pemberton, testifying for the American Civil Liberties Union, doubted the cause-and-effect proposition and denounced all controls except for publicly displayed material such as billboards. ACLU opposes pending "obscenity in the mails" legislation.

Arthur A. Magnasson, a member of the obscenity enforcement division of the New Jersey State Sheriffs Association for 20 years called Washington one of the biggest smut areas in the country after Los Angeles and New York. He said he is convinced that pornography causes antisocial behavior, and he blamed the increase of smut in New Jersey mainly on motion pictures. "Ten years ago at least a skin flick was heterosexual; today they're based on the worst sicknesses."

The Commission on Obscenity and Pornography was established in October 1967 to analyze existing laws, determine distribution methods, study the effects of pornography and obscenity on the public and particularly minors, and make legislative or administrative proposals for controlling smut "without in any way interfering with constitutional rights."

This spring it invited national organizations to give their views on the gravity of the situation and a proper definition of the terms. Hearings were held in Los Angeles earlier this month.

ADJOURNMENT TO MONDAY, MAY 18, 1970

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that

the Senate stand in adjournment until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 4 o'clock and 33 minutes p.m.) the Senate adjourned until Monday, May 18, 1970, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate May 15, 1970:

PUBLIC HEALTH SERVICE

The following candidates for personnel action in the Regular Corps of the Public Health Service subject to qualifications therefor as provided by law and regulations:

I. FOR APPOINTMENT

To be surgeons

Arnold B. Barr
John W. Flynt, Jr.
James W. Justice
James A. Rose
Heino Rubin

To be senior assistant surgeons

Joel G. Breman
David Cammack
Andrew G. Dean
Virden A. Dohner
George E. Hardy, Jr.
Ralph H. Henderson
Charles A. Herron
Donald R. Hopkins
Andrew E. Horvath
Stuart H. Lessans
Albert R. Lorbati
Gary R. Noble
Robert S. Northrup
William G. Prescott
Jeremy A. Stowell
Gerold V. van der Vlugt
Karl A. Western

To be senior assistant dental surgeons

Gary A. Kellam
Francis Y. Kihara
Preston A. Littleton, Jr.
William D. Straube

To be nurse officers

Josephine J. Hedrick
Ruth E. Reifschneider
Lawrence J. Welding

To be sanitary engineers

Kay H. Jones
George C. Kent

To be senior assistant sanitary engineers

James M. Conlon
Charles F. Costa
John M. Smith
William J. Wandersee
Charles W. Whitmore

To be assistant sanitary engineer

Thomas R. Horton

To be scientists

Richard W. Gerhardt
Stanley Glenn
Harold G. Scott
Robert T. Taylor

To be sanitarians

Ramon E. Barea
John H. Brandt
John L. Dietemann
Harold E. Knight
Jack H. Lair
James W. Pees
Robert L. Sanders
James L. Shoemake
David R. Snavely
Charles S. Stanley

To be senior assistant sanitarians

Wayne A. Bliss
William S. Clinger
Theadore H. Ericksen, Jr.
Conrad P. Ferrara
Michael D. Flanagan
Larry O. Garten
Sidney J. Gault
Edwin O. Goodman
Thomas C. Jones
Douglas H. Keefer
William A. Kingsbury
Donald L. Lambdin
Eugene W. Lewis
Frank S. Lisella
Stanley F. Little
Donald L. Mallett
Truman McCasland
Jon R. Perry
Donovan C. Shook
Charles J. Wells
William R. Wheatley
John C. Yashuk

To be veterinary officers

Denny G. Constantine
Leo A. Whitehair

To be senior assistant veterinary officer

James D. Small

To be senior assistant pharmacists

Robert J. Branagan
Gary M. Fast
Bobby L. Golden
John T. Harlowe
Edmund F. Kropidlowski
William E. Rutledge
Jerome C. Short

To be assistant pharmacists

Frank J. Nice
Gerald A. Stock, Jr.
Earl L. Wunder

To be assistant therapist

Gene A. Diullo

To be health services officers

Robert W. Carrick
Owen L. Ellingson
Dwight W. Glenn
Frederick E. Hamblet
Robert J. Lyon
William J. O'Malley
LaVert C. Seabron
Robert Sullivan
William K. Young, Jr.

To be senior assistant health services officers

Roger L. Anderson
Reuben A. Baybars
Raymond D. Beaulieu
David A. Brashear
Norman E. Childs
Coy A. Davis
Gerald L. Gels
Aubrey M. Hall, Jr.
James C. McFarlane
David N. McNelis
James F. McTigue
Alan Palmer
Pantelis G. Rentos
Michael A. Ricciutti
Ralph E. Shuping
Donald R. Soeken
Robert F. Swiecicki
Wilbur F. Van Pelt
Joel G. Veater

To be assistant health services officers

Joseph S. Arcarese
Steven Brecher
Selden C. Hall, Jr.
Karen K. Schilder
Mark O. Semler
Dennis R. Shipman

U.S. ARMY

The following-named officers for temporary appointment in the Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

To be brigadier general

Col. Frederick Charles Krause, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. William Johnston Maddox, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. Thomas Howard Tackaberry, [redacted] Army of the United States (major, U.S. Army).

Col. John Terrell Carley, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Jack Wilson Hemingway, [redacted], U.S. Army.

Col. Conrad Leon Stansberry, [redacted], U.S. Army.

Col. George Anthony Rebh, [redacted], U.S. Army.

Col. James McKinley Gibson, [redacted], U.S. Army.

Col. Wilburn Clarence Weaver, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Jeffrey Greenwood Smith, [redacted], U.S. Army.

Col. John Haygood Morrison, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. Albert George Hume, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Sidney Gritz, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. Arthur Siegman Hyman, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John Gillespie Hill, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Ernest Paul Braucher, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John Raymond Pierce, Jr. [redacted], U.S. Army.

Col. Harry Herbert Hiestand, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Joseph Frederick Hughes Cutrona, [redacted], U.S. Army.

Col. Orlando Carl Epp, [redacted], U.S. Army.

Col. Samuel Vaughan Wilson, [redacted], U.S. Army.

Col. Frank Earl Blazey, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Olin Earl Smith, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Tom Mercer Nicholson, [redacted], U.S. Army.

Col. Bates Cavanaugh Burnell, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Louis John Schelter, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Homer Duggins Smith, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. George Elmer Wear, [redacted], U.S. Army.

Col. Oliver Beirne Patton, [redacted], U.S. Army.

Col. Ronald James Fairfield, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Eugene Michael Lynch, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Winfield S. Scott, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. Carter Weldon Clarke, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. James Alva Munson, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Thomas Edward Fitzpatrick, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. Richard Edward McConnell, [redacted] Army of the United States (major, U.S. Army).

Col. Carroll Edward Adams, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. Patrick William Powers, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Daniel Vance, Jr., [redacted] Army of the United States (major, U.S. Army).

Col. Albion Williamson Knight, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. Max Etkin, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. Dean Van Lydegraf, [redacted], U.S. Army.

Col. Alton Gustav Post, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Richard Wesley Swenson, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Edward Francis Gudgel, Jr., [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. Raymond Oscar Miller, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John Benedict Desmond, [redacted], U.S. Army.

Col. Richard Gregory Fazakerley, [redacted] Army of the United States (major, U.S. Army).

Col. Joseph Corbett McDonough, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Col. John William Vessey, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John Ember Sterling, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John Crouse Burney, Jr., [redacted], Army of the United States (major, U.S. Army).

Col. George Bernard Fink, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John Alan Hoefling, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Joseph Charles Kiefe, Jr., [redacted], Army of the United States (major, U.S. Army).

Col. Robert Haldane, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Donn Albert Starry, [redacted], Army of the United States (major, U.S. Army).

Col. Elmer Raymond Ochs, [redacted], Army of the United States (major, U.S. Army).

Col. Hal Edward Hallgren, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Andrew John Gatsis [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Colonel Rutledge Parker Hazzard, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Lynn Wood Hoskins, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Louis Joseph Prost, [redacted], Army of the United States (lieutenant colonel, U.S. Army.

Col. Henry Herman Bolz, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John Edward Stannard, [redacted], Army of the United States (major, U.S. Army).

Col. Stan Leon McClellan, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Louis Rachmeler, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John Garnett Waggener, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Thomas Willard Bowen, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Charles Ralph Bushong, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John Scholto Wieringa, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Samuel Grady Cockerham, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Charles Dwelle Daniel, Jr., [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Wallace Keith Wittwer, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. John David Lewis, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Paul Eugene Smith [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Robert Willoughby Williams, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

Col. Robert Gibbons Gard, Jr., [redacted], Army of the United States (major, U.S. Army).

Col. Edward Charles Meyer, [redacted], Army of the United States (major, U.S. Army).

Col. Joseph Key Bratton, [redacted], Army of the United States (major, U.S. Army).

Col. Alfred Bradford Hale, [redacted], Army of the United States (major, U.S. Army).

To be brigadier general, Women's Army Corps

Col. Elizabeth Paschel Hoisington, [redacted], U.S. Army.

The following-named officers for temporary appointment in the Army of the United States to the grades indicated under the provisions of title 10, United States Code, sections 3442 and 3447:

To be major general, Medical Corps

Brig. Gen. Spurgeon Hart Neel, Jr., [redacted] Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. Colin Francis Vorder Bruegge, [redacted] Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. Carl Wilson Hughes, [redacted] Army of the United States (colonel, Medical Corps, U.S. Army).

To be brigadier general, Medical Corps

Col. Robert Morris Hardaway, III, [redacted] Medical Corps, U.S. Army.

Col. Edward Henry Vogel, Jr., [redacted] Medical Corps, U.S. Army.

Col. Robert Bernstein, [redacted] Medical Corps, U.S. Army.

To be brigadier general, Army Nurse Corps

Col. Anna Mae McCabe Hays, [redacted] Army Nurse Corps, U.S. Army.

The following-named officers for appointment in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 3284 and 3306:

To be brigadier general, Medical Corps

Maj. Gen. James Arista Wier, [redacted] Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. Colin Francis Vorder Bruegge, [redacted] Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. Thomas Joseph Whelan, Jr., [redacted] Army of the United States (colonel, Medical Corps, U.S. Army).

The following-named officers for temporary appointment in the Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 3442 and 3447:

To be major general

Brig. Gen. Daniel Arthur Raymond, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. William Alden Burke, [redacted] Army of the United States (colonel U.S. Army).

Brig. Gen. Robert Davis Terry, [redacted] Army of the United States (colonel, U.S. Army).

Brig Gen. William Edgar Shedd III, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. George Samuel Blanchard, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Charles Wolcott Ryder, Jr., [redacted] Army of the United Stattes (colonel, U.S. Army).

Brig. Gen. Winant Sidle, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. William Russel Kraft, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Elmer Parker Yates, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Donnelly Paul Bolton, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. William Smith Coleman, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Frank Butner Clay, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Raymond Patrick Murphy, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. John Gray Wheelock III, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. John Glenn Appel, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Joseph Warren Pezdirtz, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. George Sammet, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. George Philip Holm, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. William Edward Potts, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Marshall Bragg Garth, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. John Winthrop Barnes, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. William Eugene McLeod, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Vincent Henry Ellis, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Henry Carl Schrader, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Thomas Wright Mellen, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. James Vance Galloway, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. C. J. Le Van, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert Carter McAlister, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Frederic Ellis Davison, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. John Holloway Cushman, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Fred Ernest Karhohs, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. Robert Creel Marshall, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. James Joseph Ursano, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Donald Volney Rattan, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. John Charles Bennett, [redacted] Army of the United States (lieutenant colonel, U.S. Army).

Brig. Gen. George Washington Putnam, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Sidney Michael Marks, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Arthur Hamilton Sweeney, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. James Clifton Smith, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. John Woodland Morris, [redacted] Army of the United States, (colonel, U.S. Army).

Brig. Gen. Hubert Summers Cunningham, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Harold Robert Parfitt, [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Clarke Tileston Baldwin, Jr., [redacted] Army of the United States (colonel, U.S. Army).

Brig. Gen. Jack Alvin Albright, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Hugh Richard Higgins, xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army).

Brig. Gen. Thomas McKee Tarpley, xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army).

Brig. Gen. Frederick James Kroesen, Jr., xxx-xx-xxxx Army of the United States (colonel, U.S. Army).

Brig. Gen. Ernest Graves, Jr., xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Herbert Joseph McChrystal, Jr., xxx-xx-xxxx Army of the United States (lieutenant colonel, U. S. Army).

The following named officers for appointment in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 3284 and 3306:

To be brigadier general

Brig. Gen. Elmer Parker Yates, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Maj. Gen. Burnside Elijah Huffman, Jr., xxx-xx-xxxx Army of the United States (colonel, U.S. Army).

Brig. Gen. Winant Sidle, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. John Glenn Appel, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. John Howard Elder, Jr., xxx-... xxx-xx-xx... Army of the United States (colonel, U.S. Army).

Brig. Gen. George Sammet, Jr., xxx-xx-xx... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. William Alden Burke, xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. William Smith Coleman, xxx-... xxx-xx-xx... Army of the United States (colonel, U.S. Army).

Brig. Gen. Henry Carl Schrader, xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. Vincent Henry Ellis, xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. George Washington Putnam, Jr., xxx-xx-xxxx Army of the United States (colonel, U.S. Army).

Brig. Gen. John Winthrop Barnes, xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. Daniel Arthur Raymond, xxx-... xxx-xx-xx... Army of the United States (colonel, U.S. Army).

Brig. Gen. William Russel Kraft, Jr., xxx-... xxx-xx-xx... Army of the United States (colonel, U.S. Army).

Brig. Gen. Raymond Patrick Murphy, xxx-... xxx-xx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert Davis Terry, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Frank Butner Clay, xxx-xx-xxxx, Army of the United States (colonel, U.S. Army).

Brig. Gen. Charles Wolcott Ryder, Jr., xxx-... xxx-xx-xx... Army of the United States (colonel, U.S. Army).

Brig. Gen. William Edgar Shedd III, xxx-xx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. Donnelly Paul Bolton, xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army).

Maj. Gen. Jack Carter Fuson, xxx-xx-xxxx xxx-x... Army of the United States (colonel, U.S. Army).

Maj. Gen. Salve Hugo Matheson, xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. Marshall Bragg Garth, xxx-xx-xxxx xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. William Edward Potts, xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army).

Brig. Gen. Frederic Ellis Davison, xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. Theodore Antonelli, xxx-xx-xxxx xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. Arthur Hamilton Sweeney, Jr., xxx-xx-xxxx Army of the United States (colonel, U.S. Army).

Brig. Gen. Jack Alvin Albright, xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. Hugh Richard Higgins, xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

Brig. Gen. William Eugene McLeod, xxx-... xxx-xx-xx... Army of the United States (colonel, U.S. Army).

Brig. Gen. Joseph Warren Pezdirtz, xxx-xx-x... xxx-... Army of the United States (colonel, U.S. Army).

Brig. Gen. Sidney Michael Marks, xxx-xx-x... xxx-x... Army of the United States (colonel, U.S. Army).

U.S. NAVY

Capt. Carl O. Holmquist, U.S. Navy, to be Chief of Naval Research in the Department of the Navy for a term of 3 years with the rank of rear admiral.

The following named officers of the Navy for permanent promotion to the grade of rear admiral:

LINE

Maurice H. Rindskopf	Leo B. McCuddin
James D. Ramage	Sam H. Moore
William E. Kuntz	William M. Harnish
William H. House	Leslie H. Sell
James C. Longino, Jr.	Thomas R. McClellan
Vincent P. Healey	James C. Donaldson, Jr.
Allen A. Bergner	
Robert R. Crutchfield	Tazewell T. Shepard, Jr.
Walter D. Gaddis	
Ralph E. Cook	Kenneth C. Wallace
David F. Welch	John K. Beling
Jerome H. King, Jr.	George C. Talley, Jr.
Douglas C. Plate	Shannon D. Cramer, Jr.
Martin D. Carmody	
William J. Moran	Robert E. Adamson, Jr.
James B. Osborn	William W. Behrens, Jr.
John B. Davis, Jr.	
Parker B. Armstrong	Raymond J. Schneider
Jack M. James	David H. Jackson
Michael U. Moore	Burton H. Andrews
William R. McClendon	

CIVIL ENGINEER CORPS

Henry J. Johnson
John G. Dillon

DENTAL CORPS

John P. Arthur

U.S. ARMY

The Army of the United States officers named herein for appointment as permanent professors, U.S. Military Academy, under the provisions of title 10, United States Code, sections 4331 and 4333.

To be professor of physics

Lt. Col. Wendell A. Childs, xxx-xx-xxxx, ordnance.

To be professor or social sciences

Lt. Col. Lee D. Olvey, xxx-xx-xxxx, Armor.

IN THE AIR FORCE

Col. Robert R. Lochry, xxx-xx-xxxx FR, for appointment as Permanent Professor, U.S. Air Force Academy, under the provisions of section 9333(b), title 10, United States Code.

The following Air Force officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section xxx-... title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

To be captain (chaplain)

Borre, Robert J., xxx-xx-xxxx.
Dabrowski, George J., xxx-xx-xxxx.
Daley, Neil F., xxx-xx-xxxx.
Dane, Warren T., xxx-xx-xxxx.
Foster, Lowel D., xxx-xx-xxxx.
Heather, Thomas V., xxx-xx-xxxx.
Hutsler, Charles R., xxx-xx-xxxx.
Massey, Reese M., Jr., xxx-xx-xxxx.
Matthews, Larry A., xxx-xx-xxxx.
Merrell, Robert E., xxx-xx-xxxx.
Richardson, Thomas E., xxx-xx-xxxx.
Sims, Melvin T., Jr., xxx-xx-xxxx.
Telfer, Paul A., xxx-xx-xxxx.

To be first lieutenant (chaplain)

Boyles, Lemuel M., xxx-xx-xxxx.
Burnette, Robert R., xxx-xx-xxxx.
Christianson, Thomas N., xxx-xx-xxxx.
Coltharp, Bruce R., xxx-xx-xxxx.
Hellstern, John R., xxx-xx-xxxx.
North, James J., Jr., xxx-xx-xxxx.
O'Keefe, Francis J., xxx-xx-xxxx.
O'Malley, John J., xxx-xx-xxxx.
Strickhausen, Leslie W., xxx-xx-xxxx.
Whelan, Gerald M., xxx-xx-xxxx.
Williams, Stephen J. C., xxx-xx-xxxx.
Zimbrick, Edward C., xxx-xx-xxxx.

To be captain (judge advocate)

Burgan, Jack A., xxx-xx-xxxx.
Canellos, Ernest C., xxx-xx-xxxx.
Giaimo, Christopher J., xxx-xx-xxxx.
Hemingway, Thomas L., xxx-xx-xxxx.
Kuhnell, Ludolf R., III, xxx-xx-xxxx.
Lamport, Joe R., xxx-xx-xxxx.
Losey, Franklin W., xxx-xx-xxxx.
Negron, Victor H., xxx-xx-xxxx.
O'Connor, William E., xxx-xx-xxxx.
Roan, James C., Jr., xxx-xx-xxxx.
St Martin, Norman R., xxx-xx-xxxx.
Swerdlove, Arthur P., xxx-xx-xxxx.

To be first lieutenant (judge advocate)

Adams, Joel E., xxx-xx-xxxx.
Bailey, Theron S., xxx-xx-xxxx.
Benesch, Wayne C., xxx-xx-xxxx.
Brewer, James C., xxx-xx-xxxx.
Broderick, Phillip R., xxx-xx-xxxx.
Carlton, Daniel A., xxx-xx-xxxx.
Carroll, Fred M., xxx-xx-xxxx.
Carson, George II, xxx-xx-xxxx.
Cole, Robert L., xxx-xx-xxxx.
Elder, George P., xxx-xx-xxxx.
Foster, Perry T., xxx-xx-xxxx.
Fox, Henry H., xxx-xx-xxxx.
Gallington, Daniel J., xxx-xx-xxxx.
Hawley, Bryan G., xxx-xx-xxxx.
Hawse, Lionel A., xxx-xx-xxxx.
Heimburg, Charles B., xxx-xx-xxxx.
Hilliard, John E., xxx-xx-xxxx.
Houston, Bruce R., xxx-xx-xxxx.
Hovey, Robert J., xxx-xx-xxxx.
Jackson, Grover G., xxx-xx-xxxx.
Jacobson, Robert D., xxx-xx-xxxx.
Jones, Lawrence L., xxx-xx-xxxx.
Kansala, Dennis E., xxx-xx-xxxx.
Keeshan, James H., Jr., xxx-xx-xxxx.
Keller, Robert W., xxx-xx-xxxx.
Kelly, Thurman A., xxx-xx-xxxx.
Lingo, Robert S., xxx-xx-xxxx.
Love, Joseph D., xxx-xx-xxxx.
Marr, Michael E., xxx-xx-xxxx.
Mayer, John W., xxx-xx-xxxx.
Maynard, Jay W., xxx-xx-xxxx.
McCormick, Joseph A., xxx-xx-xxxx.
McFarlane, Robert E., Jr., xxx-xx-xxxx.
McGee, Brian E., xxx-xx-xxxx.
McGrady, Michael S., xxx-xx-xxxx.
Mesh, Richard I., xxx-xx-xxxx.
Mitchell, Paul C., xxx-xx-xxxx.
Moholt, Thomas J., xxx-xx-xxxx.
Moore, Donald L., xxx-xx-xxxx.
Morton, David L., xxx-xx-xxxx.
Nooney, James F., xxx-xx-xxxx.
Nunn, Leslie E., xxx-xx-xxxx.
ONeill, Philip F., xxx-xx-xxxx.
Palochak, John B., III, xxx-xx-xxxx.
Pavarini, George F., xxx-xx-xxxx.
Peltonen, John E., xxx-xx-xxxx.
Perry, Kent T., xxx-xx-xxxx.
Ponzoli, Ronald P., xxx-xx-xxxx.
Powell, Stephen J., xxx-xx-xxxx.
Poythress, David B., xxx-xx-xxxx.
Robbins, Ford M., xxx-xx-xxxx.
Rogers, Peter N., xxx-xx-xxxx.
Sharpe, Samuel S., xxx-xx-xxxx.

Shea, Gerald C., xxx-xx-xxxx
Shepherd, William N., xxx-xx-xxxx
Smith, William R., xxx-xx-xxxx
Uskevich, Robert J., xxx-xx-xxxx
Vickery, Harold K., Jr., xxx-xx-xxxx
Waller, Charles W., xxx-xx-xxxx
Woerner, Harold C., Jr., xxx-xx-xxxx

To be captain (dental)

Meade, Thomas E., xxx-xx-xxxx
Sano, Lawrence N., xxx-xx-xxxx
Walters, Glenn R., xxx-xx-xxxx

To be first lieutenant (dental)

Barrickman, William A., III, xxx-xx-xxxx
Benning, Allen N., xxx-xx-xxxx
Cumbey, James L., xxx-xx-xxxx
Dinitz, Fred P., xxx-xx-xxxx
Fielding, Daniel E., xxx-xx-xxxx
Harrell, Connie J., xxx-xx-xxxx
Huff, Thomas L., xxx-xx-xxxx
Hutchinson, John W., xxx-xx-xxxx
Lawless, John E., xxx-xx-xxxx
Masin, William J., xxx-xx-xxxx
Monske, Lane A., xxx-xx-xxxx
Page, Dennis G., xxx-xx-xxxx
Record, Paul W., xxx-xx-xxxx
Rossmeisl, Roman W., xxx-xx-xxxx
Schad, George W., xxx-xx-xxxx
Shannon, John W., xxx-xx-xxxx
Spray, John R., xxx-xx-xxxx
Storby, Gene L., xxx-xx-xxxx

To be major (medical)

Jennings, James F., xxx-xx-xxxx
Kelley, Ira M., xxx-xx-xxxx

To be captain (medical)

Aclin, Richard R., xxx-xx-xxxx
Beck, Roger A., xxx-xx-xxxx
Benson, Bennett N., xxx-xx-xxxx
Bickel, Rudolf G., xxx-xx-xxxx
Bladowski, John R., xxx-xx-xxxx
Booth, Donald J., xxx-xx-xxxx
Borota, Ray W., xxx-xx-xxxx
Bristow, John W., xxx-xx-xxxx
Buttemiller, Robert, xxx-xx-xxxx
Cabreraramirez, Lorenzo, xxx-xx-xxxx
Callen, Kenneth E., xxx-xx-xxxx
Carroll, Herma G., Jr., xxx-xx-xxxx
Carter, Robert L., xxx-xx-xxxx
Caudill, Robert G., xxx-xx-xxxx
Conrad, Larry L., xxx-xx-xxxx
Davies, Chesley R., xxx-xx-xxxx
Duggar, Perry N., xxx-xx-xxxx
Edwards, David A., Jr., xxx-xx-xxxx
Fielding, Steven L., xxx-xx-xxxx
Fitzhugh, William G., xxx-xx-xxxx
Foshee, William S., xxx-xx-xxxx
Frank, Sanders T., xxx-xx-xxxx
Giacobazzi, Peter F., xxx-xx-xxxx
Goodson, John P., xxx-xx-xxxx
Gregg, Paul T., xxx-xx-xxxx
Hagen, William M., xxx-xx-xxxx
Harlan, John R., xxx-xx-xxxx
Heffron, John P., xxx-xx-xxxx
Hoff, Ted E., Jr., xxx-xx-xxxx
Holmes, James H., xxx-xx-xxxx
Jackson, Arnold J., xxx-xx-xxxx
James, Richard E., xxx-xx-xxxx
Kirk, Clifford C., Jr., xxx-xx-xxxx
Krege, John W., xxx-xx-xxxx
Kutnick, Joel, xxx-xx-xxxx
Longnecker, Morton F., Jr., xxx-xx-xxxx
Lovelance, Raymond E., xxx-xx-xxxx
Lykes, Frederick F., xxx-xx-xxxx
May, Gerald G., xxx-xx-xxxx
May, Robert O., xxx-xx-xxxx
Mazzola, Robert D., xxx-xx-xxxx
McCray, David S., xxx-xx-xxxx
McDonough, Gilbert L., xxx-xx-xxxx
McGee, James W., IV, xxx-xx-xxxx
McGovern, Thomas B., xxx-xx-xxxx
Michaelson, Edward D., xxx-xx-xxxx
Mosman, John D., xxx-xx-xxxx
Munsell, William P., xxx-xx-xxxx
Nielsen, Mark W., xxx-xx-xxxx
Payne, John F., xxx-xx-xxxx
Pearson, Harve D., xxx-xx-xxxx
Plager, Stephan D., xxx-xx-xxxx
Ramey, Ralph, Jr., xxx-xx-xxxx
Ransom, Richard W., xxx-xx-xxxx
Ray, John W. C., xxx-xx-xxxx
Reay, Donald T., xxx-xx-xxxx
Riveracorrea, Hector P., xxx-xx-xxxx
Ruggeri, Robert W., xxx-xx-xxxx
Simpson, Charles L., xxx-xx-xxxx
Singal, Sheldon, xxx-xx-xxxx
Singer, Karl L., xxx-xx-xxxx
Snider, William J., xxx-xx-xxxx
Spence, Michael B., xxx-xx-xxxx
Staker, Lynn L., xxx-xx-xxxx
Stetten, Maynard L., xxx-xx-xxxx
Stieg, Richard L., xxx-xx-xxxx
Suedka, William T., xxx-xx-xxxx
Taylor, William M., xxx-xx-xxxx
Tobias, Thurman E., xxx-xx-xxxx
Totaro, Ralph J., xxx-xx-xxxx
Ulrich, Richard A., xxx-xx-xxxx
Verwest, Hadley M., Jr., xxx-xx-xxxx
Wankmuller, Robert T., xxx-xx-xxxx
Wiesmeier, Edward Jr., xxx-xx-xxxx
Willard, James E., xxx-xx-xxxx
Wooddell, William J., xxx-xx-xxxx
Wunder, James F., xxx-xx-xxxx
Yeste, Dixon, xxx-xx-xxxx

To be first lieutenant (medical)

Barrett, Robert T., xxx-xx-xxxx
Becker, David W., Jr., xxx-xx-xxxx
Beman, John W., Jr., xxx-xx-xxxx
Burke, Pat S., xxx-xx-xxxx
Dietz, James W., xxx-xx-xxxx
Garcia, Raymond, xxx-xx-xxxx
Garrott, Thomas C., xxx-xx-xxxx
Goryl, Stephen V., xxx-xx-xxxx
Gralino, Bernard J., Jr., xxx-xx-xxxx
Green, Charles E., xxx-xx-xxxx
Gripon, Edward B., xxx-xx-xxxx
Hawley, William J., xxx-xx-xxxx
Henriksen, Douglas G., xxx-xx-xxxx
Hopkins, Ralph D., Jr., xxx-xx-xxxx
Howington, Jerry W., xxx-xx-xxxx
Jacobs, Robert L., Jr., xxx-xx-xxxx
Jernigan, John F., xxx-xx-xxxx
Kay, James E., xxx-xx-xxxx
Leffingwell, Donald O., xxx-xx-xxxx
Linehan, Timothy E., xxx-xx-xxxx
Luetje, Charles M., II, xxx-xx-xxxx
Masters, Charles J., xxx-xx-xxxx
Moore, Terence N., xxx-xx-xxxx
Murphy, Matthew P., II, xxx-xx-xxxx
O'Brien, Michael W., xxx-xx-xxxx
Parker, Christopher S., xxx-xx-xxxx
Parrish, Jerry A., xxx-xx-xxxx
Plummer, Jon K., xxx-xx-xxxx
Prochazka, James V., xxx-xx-xxxx
Rector, William R., xxx-xx-xxxx
Reider, Daner R., xxx-xx-xxxx
Riherd, Leslie M., Jr., xxx-xx-xxxx
Robertson, Adam D., xxx-xx-xxxx
Sharp, John R., xxx-xx-xxxx
Shepard, Martin J., xxx-xx-xxxx
Sorauf, Thomas J., xxx-xx-xxxx
Spigel, Stuart C., xxx-xx-xxxx
Stewart, Ralph W., xxx-xx-xxxx
Taylor, Richard R., Jr., xxx-xx-xxxx
Torma, Michael J., xxx-xx-xxxx
Trick, Lorence W., xxx-xx-xxxx
Wasserman, James M., xxx-xx-xxxx
Wertz, Andrew W., xxx-xx-xxxx
Whetsell, Douglas W., xxx-xx-xxxx
Wood, Neil L., Jr., xxx-xx-xxxx

To be captain (nurse)

Brant, Alice M., xxx-xx-xxxx
Murray, David, xxx-xx-xxxx
Tuck, Robert R., xxx-xx-xxxx
Warner, Luella, xxx-xx-xxxx
Wilkerson, Eleanor R., xxx-xx-xxxx

To be first lieutenant (nurse)

Aldridge, Patricia D., xxx-xx-xxxx
Alred, Lorene F., xxx-xx-xxxx
Anderson, Ruth A., xxx-xx-xxxx
Baareman, Karen S., xxx-xx-xxxx
Baker, Jean E., xxx-xx-xxxx
Barbito, Angelia, xxx-xx-xxxx
Barger, Deloras Z., xxx-xx-xxxx
Birdlebough, Sandra I., xxx-xx-xxxx
Bishop, Elaine R., xxx-xx-xxxx
Black, Gloria A., xxx-xx-xxxx
Blanchard, Kay L., xxx-xx-xxxx
Bowar, David R., xxx-xx-xxxx
Brinson, Phillis A., xxx-xx-xxxx
Brooks, Rochelle B., xxx-xx-xxxx
Brown, Claire P., xxx-xx-xxxx
Buckley, Pamela A., xxx-xx-xxxx
Burniston, Karen S., xxx-xx-xxxx
Burton, Georgia G., xxx-xx-xxxx
Buxton, Sarah J., xxx-xx-xxxx
Cade, Martha J., xxx-xx-xxxx
Caldwell, Nancy L., xxx-xx-xxxx
Cantu, Lupita, xxx-xx-xxxx
Casterline, Arline, xxx-xx-xxxx
Castlen, Virginia A., xxx-xx-xxxx
Chura, Virginia M., xxx-xx-xxxx
Conley, Margaret A., xxx-xx-xxxx
Cook, Virginia V., xxx-xx-xxxx
Cooper, Elaine G., xxx-xx-xxxx
Corbett, Adele E., xxx-xx-xxxx
Culkin, Grace A., xxx-xx-xxxx
Degnan, Patricia A., xxx-xx-xxxx
Dinsmore, Carole A., xxx-xx-xxxx
Donahue, Joanne T., xxx-xx-xxxx
Dude, Allen G., xxx-xx-xxxx
Duplantis, Ruby A., xxx-xx-xxxx
Dutt, Delores J., xxx-xx-xxxx
Elliott, Michele A., xxx-xx-xxxx
Fitzhenry, Margaret A., xxx-xx-xxxx
Fleming, Rochelle A., xxx-xx-xxxx
Foster, Helen C., xxx-xx-xxxx
Fournier, Deborah E., xxx-xx-xxxx
Fritts, Mary C., xxx-xx-xxxx
Furtak, Loretta J., xxx-xx-xxxx
Gaebler, Barabara A., xxx-xx-xxxx
Garner, Patricia C., xxx-xx-xxxx
Geis, Lauretta S., xxx-xx-xxxx
Gemma, Elaine M., xxx-xx-xxxx
Gersz, Lorraine F., xxx-xx-xxxx
Gokee, Henry F., xxx-xx-xxxx
Green, Arlene R., xxx-xx-xxxx
Hawkins, Garrie O., xxx-xx-xxxx
Henderson, Robert D., xxx-xx-xxxx
Hester, Patricia A., xxx-xx-xxxx
Holmes, Karen L., xxx-xx-xxxx
Hughes, Ellen A., xxx-xx-xxxx
Jaco, Richard G., xxx-xx-xxxx
Jewell, Jean A., xxx-xx-xxxx
Jewell, Mary M., xxx-xx-xxxx
Jones, Frances P., xxx-xx-xxxx
Kliesen, Joyce E., xxx-xx-xxxx
Knight, Anna M., xxx-xx-xxxx
Korte, Marjorie M., xxx-xx-xxxx
Kunzie, Karen L., xxx-xx-xxxx
Kurdelski, Patricia A., xxx-xx-xxxx
Lafrance, Sandra L., xxx-xx-xxxx
Lees, Virginia K., xxx-xx-xxxx
Lemaire, Carol V., xxx-xx-xxxx
Littlejohn, Mary K., xxx-xx-xxxx
Lloyd, Florence A., xxx-xx-xxxx
Loftiss, Diane, xxx-xx-xxxx
Lunceford, Marilyn Y., xxx-xx-xxxx
Martelle, Conita K., xxx-xx-xxxx
Mathews, Abby J., xxx-xx-xxxx
McCloud, Craig R., xxx-xx-xxxx
McDaid, Tarran K., xxx-xx-xxxx
McHale, Susan M., xxx-xx-xxxx
McLaughlin, Anne M., xxx-xx-xxxx
McMillan, Shirley A., xxx-xx-xxxx
Metzgar, Barbara A., xxx-xx-xxxx
Michaud, Claire A., xxx-xx-xxxx
Miguel, Ruth E., xxx-xx-xxxx
Miller, Linda B., xxx-xx-xxxx
Minterfering, Georgann, xxx-xx-xxxx
Moore, Judith H., xxx-xx-xxxx
Moore, Terry R., xxx-xx-xxxx
Munshower, Dorothea, xxx-xx-xxxx
Myrick, Barbara A., xxx-xx-xxxx
Neubert, Barbara M., xxx-xx-xxxx
Noble, Leslie A., xxx-xx-xxxx
Norton, Patricia, xxx-xx-xxxx
O'Donnell, Madge M., xxx-xx-xxxx
Ontko, James P., xxx-xx-xxxx
Otto, Pauline E., xxx-xx-xxxx
Phelan, Mary L., xxx-xx-xxxx
Phillips, Sylvia J., xxx-xx-xxxx
Pollard, Brenda E., xxx-xx-xxxx
Pool, Richard R., xxx-xx-xxxx
Prince, Arysetta F., xxx-xx-xxxx
Ramsborg, Glen C., xxx-xx-xxxx
Ratajczak, Christine A., xxx-xx-xxxx
Ravella, Patricia C., xxx-xx-xxxx
Read, Janice, xxx-xx-xxxx
Reed, Leonard D., xxx-xx-xxxx
Reilly, Carol A., xxx-xx-xxxx
Ritzhaupt, Hazel M., xxx-xx-xxxx
Rosenbery, Nancy J., xxx-xx-xxxx

Ruble, Craig E., xxx-xx-xxxx
Runda, Mary A., xxx-xx-xxxx
Russell, Edith M., xxx-xx-xxxx
Sabinash, Gloria R., xxx-xx-xxxx
Sarracco, Elizabeth, xxx-xx-xxxx
Saulsberry, Linda M., xxx-xx-xxxx
Scarano, Linda M., xxx-xx-xxxx
Semrad, Louis, Jr., xxx-xx-xxxx
Shutts, Monica A., xxx-xx-xxxx
Sobieski, Catherine A., xxx-xx-xxxx
Somers, Pauline E., xxx-xx-xxxx
Spivey, Christine, xxx-xx-xxxx
Sprague, Judith P., xxx-xx-xxxx
Stratton, Maureen, xxx-xx-xxxx
Strauss, Nancye E., xxx-xx-xxxx
Swafford, Vivian A., xxx-xx-xxxx
Swallow, Linda L. Z., xxx-xx-xxxx
Swint, Kathleen A., xxx-xx-xxxx
Tharpe, Mary E., xxx-xx-xxxx
Thurmer, Sandra L., xxx-xx-xxxx
Tokarz, Patricia A., xxx-xx-xxxx
Tracy, Anora I., xxx-xx-xxxx
Troutman, Frederick W., xxx-xx-xxxx
Vaida, Charles T., xxx-xx-xxxx
Vanpelt, Roberta J., xxx-xx-xxxx
Vehik, Carole S., xxx-xx-xxxx
Walker, Jill K., xxx-xx-xxxx
Warner, Jane M., xxx-xx-xxxx
Weaver, William R., xxx-xx-xxxx
Westberry, Mary E., xxx-xx-xxxx
Wheeler, Mary A., xxx-xx-xxxx
Whelihan, Ethel M., xxx-xx-xxxx
Willis, Juanita M., xxx-xx-xxxx
Willoughby, Charleen K., xxx-xx-xxxx
Wilson, Shirley A., xxx-xx-xxxx
Witte, Arlene L., xxx-xx-xxxx
Woods, Fannie E., xxx-xx-xxxx
Zimmer, Ervin O., xxx-xx-xxxx
Zweck, Robert L., xxx-xx-xxxx

To be second lieutenant (nurse)

Jacobs, Gary L., xxx-xx-xxxx

To be captain (medical service)

Anderson, Claire J., xxx-xx-xxxx
Betron, Richard E., xxx-xx-xxxx
Borngasser, Frederick J., xxx-xx-xxxx
Briggs, Edward, xxx-xx-xxxx
Brown, Ross C., xxx-xx-xxxx
Butterworth, Bernal G., xxx-xx-xxxx
Curtis, Keith W., xxx-xx-xxxx
Fairless, David S., xxx-xx-xxxx
Garver, Ralph R., Jr., xxx-xx-xxxx
Green, Kenneth E., xxx-xx-xxxx
Jonas, Stephen A., Jr., xxx-xx-xxxx
Knowles, Harold D., xxx-xx-xxxx
Marquis, Don B., xxx-xx-xxxx
Murphy, Roy C., xxx-xx-xxxx
Nadell, Avrom P., xxx-xx-xxxx
O'Donnell, Philip F., Jr., xxx-xx-xxxx
Powell, George F., Jr., xxx-xx-xxxx
Rasco, William D., xxx-xx-xxxx
Rolfes, George C., xxx-xx-xxxx
Smith, Thomas L., xxx-xx-xxxx
Sorem, David N., xxx-xx-xxxx
Stanley, George H., xxx-xx-xxxx
Tenbarge, Ronald W., xxx-xx-xxxx
Vandherpen, John, xxx-xx-xxxx
Watkins, Charles H., xxx-xx-xxxx
Wisner, Preston H., xxx-xx-xxxx

To be first lieutenant (medical service)

Angell, Albert D., III, xxx-xx-xxxx
Ausmus, Duane G., xxx-xx-xxxx
Casto, Graden J., xxx-xx-xxxx
Couser, David G., xxx-xx-xxxx
DeGroot, Edward B., III, xxx-xx-xxxx
Fox, David M., xxx-xx-xxxx
Grabowski, John J., Jr., xxx-xx-xxxx
Griffin, Richard W., xxx-xx-xxxx
Harmon, Lloyd C., xxx-xx-xxxx
Heuckendorf, Richard P., xxx-xx-xxxx
Hoch, Francis L., xxx-xx-xxxx
Hutchison, Gordon L., xxx-xx-xxxx
Iverson, Jerry M., xxx-xx-xxxx
Kenschaft, Robert B., xxx-xx-xxxx
Lee, Donald E., Jr., xxx-xx-xxxx
Loftus, Thomas, xxx-xx-xxxx
MacDonald, George R., xxx-xx-xxxx
Martin, Howard L., Jr., xxx-xx-xxxx
Murrell, Warren P., Jr., xxx-xx-xxxx
Stephen, Frederick R., xxx-xx-xxxx
Terry, Wayne G., xxx-xx-xxxx
Turk, Herbert A., Jr., xxx-xx-xxxx
Vago, Frederick A., xxx-xx-xxxx

To be second lieutenant (medical service)

Boyd, James F., xxx-xx-xxxx
Cunningham, Terence T., III, xxx-xx-xxxx
Downing, Dennis R., xxx-xx-xxxx
Erwin, James L., xxx-xx-xxxx
George, Charles L., Jr., xxx-xx-xxxx
Griffin, Arland G., xxx-xx-xxxx
Huggins, William C., xxx-xx-xxxx
Hurt, Eric L., xxx-xx-xxxx
Lott, Larry K., xxx-xx-xxxx
Mackie, Kenneth J., Jr., xxx-xx-xxxx
Marsh, Peter H., xxx-xx-xxxx
Montero, Lloyd A., xxx-xx-xxxx
Parry, George M., xxx-xx-xxxx
Pettigrew, Alan G., Jr., xxx-xx-xxxx
Powell, George R., xxx-xx-xxxx
Powers, William J., xxx-xx-xxxx
Russell, Sydney S., III, xxx-xx-xxxx
Sample, Kenneth F., xxx-xx-xxxx
Stephenson, John R., xxx-xx-xxxx
Upton, Thomas L., xxx-xx-xxxx
Vocks, Joseph T., xxx-xx-xxxx

To be major (veterinarian)

Boyd, Dale D., xxx-xx-xxxx
Shuman, Donald G., xxx-xx-xxxx

To be first lieutenant (veterinarian)

Ayers, Kenneth M., xxx-xx-xxxx
Beleau, Marshall H., xxx-xx-xxxx
Bowman, Gary L., xxx-xx-xxxx
Boyd, Robert C., xxx-xx-xxxx
Brown, Bobby G., xxx-xx-xxxx
Bryan, Richard K., xxx-xx-xxxx
Clothier, Eugene R., xxx-xx-xxxx
Cramlet, Stephan H., xxx-xx-xxxx
Gunter, David F., xxx-xx-xxxx
Hansen, Jon O., xxx-xx-xxxx
Harwood, Baxter, xxx-xx-xxxx
Jewell, Asa H., Jr., xxx-xx-xxxx
Kent, Warren W., Jr., xxx-xx-xxxx
Leftwich, Marion W., Jr., xxx-xx-xxxx
Long, Donald M., xxx-xx-xxxx
Mammeli, Bruce H., xxx-xx-xxxx
Mann, David R., xxx-xx-xxxx
McIntosh, Dennis K., xxx-xx-xxxx
Meisegeier, Larry R., xxx-xx-xxxx
Ross, Donald L., xxx-xx-xxxx
Schaad, Lawrence E., xxx-xx-xxxx
Smith, William B., xxx-xx-xxxx
Thomas, Manuel A., Jr., xxx-xx-xxxx
Voelker, Frank A., xxx-xx-xxxx
Walker, Dewayne H., xxx-xx-xxxx
Wiley, George L., xxx-xx-xxxx

To be major (biomedical sciences)

Beatty, Maxine, xxx-xx-xxxx
Deuel, Kenneth H., xxx-xx-xxxx
Devincentis, Joseph G., xxx-xx-xxxx
Fraser, Ella J., xxx-xx-xxxx
Larsen, Reed M., xxx-xx-xxxx
McDonald, Maynard R., xxx-xx-xxxx
Pilmer, Richard B., xxx-xx-xxxx
Steffen, Robert, xxx-xx-xxxx
Verhagen, Paul C., xxx-xx-xxxx

To be captain (biomedical sciences)

Baran. Francis V., xxx-xx-xxxx
Connolly, Francis J., xxx-xx-xxxx
Carson, Jane S., xxx-xx-xxxx
Coyne, Robert V., xxx-xx-xxxx
Deutch, James A., xxx-xx-xxxx
Esters. Lavada, xxx-xx-xxxx
Foley, Thomas J., Jr., xxx-xx-xxxx
Gibbons, William D., xxx-xx-xxxx
Knight, John F. xxx-xx-xxxx
McMurdo, Gordon C., xxx-xx-xxxx
Mikesell, George W., Jr., xxx-xx-xxxx
Mockler, Nedd D., xxx-xx-xxxx
Murphy, John G., xxx-xx-xxxx
Rodes, Grover C., xxx-xx-xxxx
Sparks, George P., xxx-xx-xxxx
Spence, Kenneth J. xxx-xx-xxxx
Steinkerchner, Raymond E. xxx-xx-xxxx
Suggs, Harry J., xxx-xx-xxxx
Talley, Allen J., xxx-xx-xxxx
Titzel, Gene E., xxx-xx-xxxx
Trusty, Ronald D., xxx-xx-xxxx
Williams, Carlton R., xxx-xx-xxxx

To be first lieutenant (biomedical sciences)

Abdo, Joseph C., xxx-xx-xxxx
Baum, Marvin G., xxx-xx-xxxx
Brady, Barbara J., xxx-xx-xxxx
Buckman, John B., III, xxx-xx-xxxx
Bukovac, Ruby P., xxx-xx-xxxx
Campbell, Donald H., Jr., xxx-xx-xxxx
Cheek, Chandler S., xxx-xx-xxxx
Daley, Peter S., xxx-xx-xxxx
Davis, James E., xxx-xx-xxxx
Delancey, Gary W., xxx-xx-xxxx
Ellis, Sharon L. M., xxx-xx-xxxx
Gibeau, John K., xxx-xx-xxxx
Haddon, Rayburn S., III xxx-xx-xxxx
Krimm, Bernard F., xxx-xx-xxxx
Lerroco, Eric F., Jr., xxx-xx-xxxx
Mudge, Stephanie E., xxx-xx-xxxx
Obrien, Patrick J. xxx-xx-xxxx
Patterson, William E., xxx-xx-xxxx
Pierson, Wayne P., xxx-xx-xxxx
Robinson, John S. xxx-xx-xxxx
Rudolph, Russell R., xxx-xx-xxxx
Scally, Margaret A., xxx-xx-xxxx
Schneider, Robert F., xxx-xx-xxxx
Snedecor, Susan A., xxx-xx-xxxx
Terrell, Sharon C., xxx-xx-xxxx
Williams, Jerry R., xxx-xx-xxxx

To be second lieutenant (biomedical sciences)

Anderson, Herman B., Jr., xxx-xx-xxxx
Anthony, Nicholas C., xxx-xx-xxxx
Aycock, Arthur C., xxx-xx-xxxx
Baughman, Mary A., xxx-xx-xxxx
Benline, Terry A., xxx-xx-xxxx
Biegert, Eugene A., xxx-xx-xxxx
Carter, Fred W., III, xxx-xx-xxxx
Colenzo, Salvatore J., xxx-xx-xxxx
Ebbe, Christopher E., xxx-xx-xxxx
Gallagher, Frank P., III xxx-xx-xxxx
Grand, Ronald S., xxx-xx-xxxx
Hablitzel, Thomas L., xxx-xx-xxxx
Harris, Joe L., xxx-xx-xxxx
Harris, Ronald J. xxx-xx-xxxx
Holley, Clarence I., xxx-xx-xxxx
Hutcherson, John R. xxx-xx-xxxx
Koistinen, Darrel W., xxx-xx-xxxx
Krull, Allan H., xxx-xx-xxxx
McCracken, James E., Jr., xxx-xx-xxxx
McIntyre, Thomas H., xxx-xx-xxxx
Moran, Jeanne R., xxx-xx-xxxx
Naugle, Dennis F., xxx-xx-xxxx
Parker, David P., xxx-xx-xxxx
Pearson, Timothy J. xxx-xx-xxxx
Raebiger, Carol A., xxx-xx-xxxx
Rosato, Louis W., Jr., xxx-xx-xxxx
Smith, John H. xxx-xx-xxxx
Strozier, Eugene F., xxx-xx-xxxx
Swede, Benjamin M., xxx-xx-xxxx
Vance, Dwight A., xxx-xx-xxxx
Wagner, Lyle N., xxx-xx-xxxx
Weinstock, Sue A., xxx-xx-xxxx
Weyers, George R., xxx-xx-xxxx

To be first lieutenant (medical specialist)

Stoner, Regina C., xxx-xx-xxxx

The following distinguished graduates of the Air Force officer training school for appointment in the regular Air Force in the grade of second lieutenant, under the provisions of section 8284, title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force.

Bentley, Peter T. xxx-xx-xxxx
Bock, Charles H., xxx-xx-xxxx
Collins, Peter, Jr., xxx-xx-xxxx
Cookerly, David H., xxx-xx-xxxx
Curley, Michael J., xxx-xx-xxxx
Duran, Donaghey E., xxx-xx-xxxx
Egnatchik, Michael R., xxx-xx-xxxx
Hanna, Thomas G., II xxx-xx-xxxx
Odom, Larry W., xxx-xx-xxxx
O'Sullivan, Thomas V., Jr. xxx-xx-xxxx
Sullivan, James M., xxx-xx-xxxx
Wampole, David F., xxx-xx-xxxx
Wargo, Ronald P., xxx-xx-xxxx
Webster, Russell J., xxx-xx-xxxx
Wood, Steven R., xxx-xx-xxxx